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Ohio Statutes, Statutes, U.S.

THE STATE OF OHIO.

GENERAL AND LOCAL ACTS

PASSED

AND

JOINT RESOLUTIONS

ADOPTED

BY THE

SEVENTY-FIFTH GENERAL ASSEMBLY,

AT ITS EXTRAORDINARY SESSION,

BEGUN AND HELD IN THE CITY OF COLUMBUS, AUGUST 25, 1902

VOLUME XCVI.

SPRINGFIELD, OHIO:
THE SPRINGFIELD PUBLISHING CO.
1902.

GENERAL LAWS.

[Senate Bill No. 7.]

AN ACT

To provide for the appointment of jury commissioners and the selection of jurors, and to repeal certain acts and sections of the Revised Statutes of Ohio, herein designated.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5163, 5164, 5165, 5166 and 5167 of the Revised Statutes of Ohio be amended so as to read as follows: **Summoning jury, etc.:**

Sec. 5163. The county commissioners of each county in the state of Ohio shall provide and place in the custody of the clerk of the court of common pleas of their respective counties, a wheel so constructed and arranged that by turning the same the pieces of paper hereinafter mentioned may be thoroughly mixed, and that the names upon such pieces of paper can not be read or seen until withdrawn from such wheel. **Jury wheel.**

Sec. 5164. In every county in the state of Ohio, within ten days after the passage of this act, and before the fourth Monday of May of each year thereafter, the judge or judges of the court of common pleas for each subdivision of the judicial district, or a majority of such judges, shall, in joint session, appoint four judicious freehold electors in each county in each of the several subdivisions of the judicial districts, no one of whom shall be an attorney at law, and not more than two of whom shall be of the same political party, who shall be commissioners of jurors of such county for one year, and until their successors are appointed and qualified, and a record of such appointment shall be made upon the journal of each of said courts in each separate county; provided that the term of the commissioners first appointed under the provisions of this act shall expire on the fourth Monday of May, 1903, or when their successors are appointed and qualified. Such commissioners shall, before entering upon the discharge of their duties, appear before a judge of the court of common pleas of said county, or in his absence, then before the clerk of the court of common pleas of said county and take an oath of office as follows: "I do solemnly swear (or affirm) that I will honestly and faithfully discharge the duties of commissioner of jurors without fear or favor, and that I will consent to the selection of no person as juror whom I have been solicited to name as juror, or whom I believe to be unfit for that po- **Jury commissioners; appointment, qualifications and term.** **Record of appointment.** **Oath.**

sition, or likely to render a partial verdict in any cause in which he may be called as juror, and that I will report to the court the names of any and all persons who, in any manner, seek by request, hint or suggestion, to influence me in the selection of jurors. And this I do as I shall answer unto God" (or "and this I do under the pains and penalties of perjury"). And it shall be the duty of said court, or in his absence, of the clerk of said court, before said commissioners shall enter upon the discharge of their duties, to specifically direct their attention to this act, and to instruct and caution them respecting their duties thereunder. On or before the first Monday after the appointment of the first commissioners provided for by this act, and on the fourth Monday of May in each year thereafter, such commissioners shall meet in the office of the auditor of each county at 10 o'clock in the forenoon and shall there select such number of judicious and discreet persons, having the qualifications of electors of such county, as the court may direct, to be selected as nearly as may be from the several wards and townships in proportion to their respective population; but no person shall be so selected who shall not, in the judgment of all of said commissioners, be competent in every respect to serve as a juror; that after said commissioners, shall have first ascertained said wheel to be entirely empty, the names of the persons so selected as aforesaid, shall be written by the county clerk on separate pieces of paper, uniform in size, quality and color, which shall be put into said wheel and securely locked therein in the presence of said commissioners, and said commissioners shall also, at the same time, make and sign a certificate containing all of said names, which they shall certify to be the names of the persons selected at the time and place aforesaid to serve as jurors for the ensuing year as their names shall be drawn, and that they are the same names as those placed in said wheel, which said certificate shall be filed with said clerk. Said wheel shall be securely locked at all times, except when by order of court, or a judge thereof, it shall be necessary to put names in it, and to draw them from it in the manner herein provided; and said clerk shall be custodian of said wheel and key. And if any person shall unlock or open said wheel, except by order of court, or a judge, he shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be fined not more than one thousand dollars, nor less than five hundred dollars, and be imprisoned in the county jail not more than one year nor less than three months. If either of the commissioners mentioned in this section of this act shall be sick or absent from the county a judge of the court of common pleas of the subdivision in which said county is located, may appoint some judicious or disinterested person to take the place of such commissioner in making the selection herein provided for; and the person so appointed shall be of the same political party as the commissioner whose place is to be filled; whenever it shall be-

Duty of court or clerk.

Selection of jurors.

Certificate of persons selected.

Wheel to be kept locked.

Custodian of wheel and key; penalty for unlawfully unlocking or opening wheel.

Appointment when commissioner sick or absent.

Meeting and selection of jurors upon order of court.

come necessary said commissioners shall meet at such time and place as the court of common pleas or a judge thereof may appoint, and shall there select such number of persons as the court may by its order direct, and the names of such person shall be selected, written and deposited in said wheel and certified to, as hereinbefore specified; but nothing herein contained shall affect the issuance by order of court, of special venires, as now provided by law.

Special venires

Sec. 5165. Whenever the clerk of the court of common pleas of any county shall be directed by the order of any court of record therein (except a police court), or by a judge thereof in vacation, to cause any number of persons to be summoned to serve as grand or petit jurors, in such court, he shall at once, in the presence of the sheriff, proceed to turn said wheel until said pieces of paper are thoroughly mixed, and shall then draw therefrom the number of names specified, in such order, and shall forthwith, unless otherwise directed by said court or judge issue a venire facias to the sheriff commanding him to summon the jurors whose names were so drawn to attend as jurors at the time and place specified in said order, and all grand and petit juries shall be empaneled from persons so selected and summoned as aforesaid, except as otherwise provided by law.

Drawing of grand and petit jurors and issuing venires.

Sec. 5166. That said commissioners shall each receive for their services herein named, the sum of three dollars for each day necessarily employed, not to exceed ten days in any one year, to be paid out of the county treasury, upon the approval of the county commissioners.

Compensation of commissioners.

Sec. 5167. Whoever attempts, by request, hint or suggestion, to influence such commissioners, or any of them, to select or not to select himself or any other person or persons as aforesaid, upon conviction shall be fined not more than one hundred dollars and be imprisoned in the county jail not more than twenty days. And it shall be the duty of each of said commissioners to report to the said court of common pleas the names of any and all persons who shall attempt as aforesaid to influence said commissioners, or any of them, in their selection of jurors. Any commissioner so appointed who accepts any gift, compensation or favor, or the promise thereof, from any person, firm or corporation, having any cause pending in any of the courts of such counties, and any person, firm or corporation, or the officer or agent thereof, who shall make or promise any gift, favor or compensation of any kind to any such commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalties provided by this section.

Penalty for attempting to influence commissioners in selection of jurors; duty of commissioners.

Bribery; penalty.

SECTION 2. That the following acts and parts of acts and sections of the Revised Statutes, and each of them, be, and the same are hereby repealed, to-wit:

Repeals.

An act to regulate and provide for the appointment and

selection of jurors in the county of Lucas, passed April 8, 1880 (Vol. 77 Ohio Laws, 370).

An act to amend sections 2, 3, 4 and 5 of the said act of April 8, 1880, passed May 18, 1886 (Vol. 83 Ohio Laws, 378).

An act to provide for the appointment of jury commissioners and the selection of jurors in certain counties, passed March 25, 1891 (Vol. 88, Ohio Laws, 200), the same being designated in Bates' Annotated Statutes as sections 5189*n*, 5189*o*, 5189*p*, 5189*q*, 5189*r*, 5189*s*.

Sections 1, 2, 3, 4, 5, and 6, of an act to provide for the appointment of jury commissioners and the selection of jurors in certain counties, and to repeal certain sections therein named passed April 23, 1894, (Vol. 91, Ohio Laws, 176), the same being designated in Bates' Annotated Statutes as sections 5162-1, 5162-2, 5162-3, 5162-4, 5162-5 and 5162-6.

Section 5162-4 R. S., as amended April 14, 1900 (Vol. 94, Ohio Laws, 206).

Section 5163, R. S.

Section 5164, R. S.

Section 5165, R. S.

Section 5166, R. S.

Section 5167, R. S., as amended March 30, 1893 (Vol. 90, Ohio Laws, 133).

Section 5189*a* and 5189*b*, as amended April 6, 1892 (Vol. 89 Ohio Laws, 222).

Sections 5189*b*, 5189*b*(1), 5189*b*(3), as amended April 24, 1893 (Vol. 90 Ohio Laws, 254).

Sections 5189*b*(2) and 5189*c*, as amended April 26, 1890 (Vol. 87, Ohio Laws, 327).

Sections 5189*d*, 5189*e*, 5189*f*, 5189*h*, 5189*i*, 5819*j*, 5189*k*, 5189*m*, passed March 29, 1881 (Vol. 78, Ohio Laws, 95.)

Section 5189*l*, as amended April 25, 1898 (Vol. 93, Ohio Laws, 333).

SECTION 3. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

H. L. GORDON,
President of the Senate.

Passed September 30, 1902. 1 G

[Senate Bill No. 10.]

AN ACT

To amend section 3195 of the Revised Statutes of Ohio.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3195 of the Revised Statutes of Ohio be amended so as to read as follows: **Mechanics' liens:**

Sec. 3195. Such subcontractor, material man, mechanic, laborer or person so filing his statement with the owner, board, or officer, or authorized clerk, agent or attorney of such owner, board, or officer, shall, in order to notify his fellow subcontractors, material men, laborers, and persons furnishing material, at the same time file a sworn copy thereof, with the county recorder as provided in sections 3185 and 3187, and shall thereafter to the extent of any balance remaining unpaid upon the contract of the owner, board or officers, with whom the same was made, have a lien to secure payment of the same, upon the boat, vessel or other water craft, or upon the house, mill, manufactory, or other building, appurtenance, bridge or other structure, or upon any gas well, oil well or any other well, or upon the oil tank, oil derrick, or gas line pipe, in or upon which the same was done or furnished, in the lot or land upon which the same may stand, or to which it may be removed, which lien shall date back from the date of the furnishing of the first item of such labor, material or machinery, and to be subject to the same obligations, with respect to the owner, or his authorized agent, as the lien of a head contractor, in similar cases; and for filing and making any copy of such statement or certificate of the date of such filing, the recorder shall be entitled to the same fees as are provided by law for like services in regard to chattel mortgages. **Filing of statement with recorder to notify fellow laborers, etc.** **Recorder's fees.**

SECTION 2. That said original section 3195 (95 v. O. L. 211), be and the same is hereby repealed. **Repeals.**

SECTION 3. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

H. L. GORDON,
President of the Senate.

Passed October 17, 1902. 2 G

[Senate Bill No. 8.]

AN ACT

Authorizing boards of education to provide library privileges for city, village and special school districts.

Be it enacted by the General Assembly of the State of Ohio:

Board of education authorized to provide for establishment, etc., of public library.

SECTION 1. That the board of education of any city, village or special school district may by resolution, provide for the establishment, control and maintenance, in such school district, of a public library, free to all the inhabitants of such district, and for that purpose may acquire by purchase the necessary real property, and erect thereon a library building; it may acquire from any library association, by purchase or otherwise, its library and property; may receive donations and bequests of money or property for such library purposes and may maintain and support libraries now in existence and controlled by the board of education; and such board of education may annually make a levy upon the taxable property of such school district, in addition to all other taxes allowed by law, of not to exceed one mill for a library fund to be expended by such board of education, for the establishment, support and maintenance of such public library.

Taxation.

Board of library trustees; how constituted, etc.; powers.

SECTION 2. The board of education may provide for the management and control of such library by a board of trustees to be elected by said board of education as herein provided. Such board of library trustees shall consist of seven members, who shall be residents of the school district, and no one shall be eligible to membership on said library board who is or has been for a year previous to his election, a member or officer of the board of education. The term of office shall be seven years, except that at the first election the terms shall be such that one member shall retire each year. Should a vacancy occur in said board, it shall be filled by the board of education for the unexpired term. The members of said library board shall serve without compensation and until their successors are elected and qualified. Such library board in its own name shall hold the title to and have the custody, management and control of all libraries, branches, stations, reading rooms, and of all library property, real and personal, of such school district, and the expenditure of all moneys collected or received from any source for library purposes for such district. It shall have power to employ a librarian and assistants, but previous to such employment the compensation of such librarian and assistants shall be fixed. Such library board shall have the power, by a two-thirds vote of its members, to purchase or lease grounds and buildings, and erect buildings for library purposes. It may accept any gift, devise or bequest for the benefit of such library. No member of the library board shall be interested, directly or indirectly, in any contract

made by the board. The library board shall report annually in writing to the board of education.

When library to be under control of such board.

SECTION 3. Whenever in any city, village or special school district a library established or controlled by a board of education shall contain twenty-five thousand or more volumes, it shall be managed, governed and controlled by a board of trustees elected by the board of education as provided in section 2 of this act.

Library fund; how provided and maintained.

SECTION 4. Said board of library trustees shall annually, during the month of May, certify to the board of education the amount of money that will be needed for increasing, maintaining and operating said library during the ensuing year in addition to the funds available therefor from other sources; and such board of education shall annually levy on each dollar of taxable property within said school district, in addition to all other levies authorized by law, such assessment not exceeding one mill, as shall be necessary to realize the sum so certified, the same to be placed on the tax duplicate and collected as other taxes.

The proceeds of the said tax shall constitute a fund to be known and designated as the library fund: Payments therefrom shall only be made upon the warrant of the board of trustees of the library, signed by the president and secretary thereof.

Board of education may contract with library association for use of library.

SECTION 5. The board of education in any city, village or special school district shall have power to contract annually with any library corporation or other organization owning and maintaining a library, for the use of such library by the residents of such district, and it shall have power to levy annually a tax not exceeding one mill on the taxable property of such district to pay for the same; and such board of education shall require an annual report in writing from such library corporation or other organization.

School library.

SECTION 6. The board of education of any school district of the state, in which there is not a public library operated under public authority and free to all the residents of such district, may appropriate annually not to exceed two hundred and fifty dollars annually from its contingent fund for the purchase of books, other than school books, for the use and improvement of the teachers and pupils of such school district. The books so purchased shall constitute a school library, the control and management of which shall be vested in the board of education, which board shall have power to receive donations and bequests of money or property for such library.

Museum.

SECTION 7. The board of education of any school district, or any board of trustees managing and controlling a library in any school district, may found and maintain a museum in connection with and as an adjunct to such library, and for such purpose may receive bequests and donations of money or other property.

SECTION 8. This act shall take effect and be in force on and after November 15, 1902, and all acts or parts of acts not inconsistent herewith under which existing libraries are maintained, governed and controlled, shall be and remain in full force and effect.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 17, 1902. 3 G

[House Bill No. 31.]

AN ACT

To make sundry appropriations for the general assembly.

Be it enacted by the General Assembly of the State of Ohio:

Appropriations for sundry purposes.

SECTION 1. That there be and is hereby appropriated from any money in the state treasury to the credit of the general revenue fund, not otherwise appropriated:

"One hundred and six thousand dollars for salaries and mileage of members, per diem of clerks, sergeants-at-arms and other officers and employes of the general assembly; and it is herein provided that each member of the general assembly is hereby entitled to receive at the close of the present extraordinary session, from the moneys herein appropriated, the sum of six hundred dollars, which shall be in full of annual salary due on February 16, 1903."

Seven thousand dollars for contingent expenses of the house.

Four thousand and five hundred dollars for contingent expenses of the senate.

One thousand dollars for expenses of legislative committees.

Bureau of Inspection and Supervision of Public Offices.

The money which may be collected by the auditor of state for expense of auditing public accounts, as provided in an act creating the bureau of inspection and supervision of public offices (O. L. 95, pp. 514-515) is hereby appropriated for the purposes therein specified.

Ohio Hospital for Epileptics.

The appropriations providing for "One stone cottage and furnishing" (O. L. 95, p. 588) and for "One stone cottage and furnishing" (O. L. 95 p. 639) are hereby corrected so as to read, in each case for "Construction and furnishing."

SECTION 2. This act shall take effect on its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 17, 1902. 4 G

[Senate Bill No. 3.]

AN ACT

To amend section 6710 (as amended May 12, 1902, 95 O. L. 569) of the Revised Statutes of Ohio.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 6710 (as amended May 12th, 1902, 95 O. L. 569), of the Revised Statutes, be amended so as to read as follows:

Jurisdiction in error:

Sec. 6710. A judgment rendered, or a final order made by a circuit court, or a judge thereof, court of common pleas, or a judge thereof, probate court, insolvency court, or a superior court or a judge thereof, may be reversed, vacated or modified by the supreme court, on petition in error, for errors appearing on the record; but no petition in error except as to the judgment or final order of the circuit court, or a judge thereof, or of the general term of any superior court, or a judge thereof, shall be filed without leave of the supreme court, or a judge thereof, and the supreme court shall not in any civil cause or proceeding, except when its jurisdiction is original, be required to determine as to the weight of the evidence; and on application of any party excepting to a ruling or decision of the circuit court during the trial, or on motion for a new trial, such court shall find from the evidence, and state on the record the facts upon which the alleged error arises, or which may be material in determining whether error has intervened or not.

Jurisdiction of supreme court in error.

SECTION 2. That section 6710 of the Revised Statutes of Ohio as amended May 12th, 1902, be and the same is hereby repealed.

Repeals.

SECTION 3. This act shall take effect from and after its passage, and shall apply to all causes of action existing, and to all prosecutions and proceedings, civil and criminal, and actions pending at this time, in all courts inferior to the supreme court, and shall also apply to all other such causes of action, prosecutions, proceedings and actions which were affected by the enactment and existence of the statute repealed by section 2 hereof, and as to all such causes of action, prosecutions, proceedings and actions, the right of commencing proceedings to reverse, vacate or modify the judgments or final order therein, is hereby given and extended for thirty days from and after the passage of this act; provided, that nothing herein shall reduce the time allowed by section 6723 of the Revised Statutes for commencing any such last above mentioned proceedings.

W. S. MCKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902.

5 G

[House Bill No. 3.]

AN ACT

To amend section 5227 of the Revised Statutes of Ohio, as amended March 25, 1902.

Be it enacted by the General Assembly of the State of Ohio:

Trial on appeal:

SECTION 1. That section 5227 of the Revised Statutes of Ohio, as amended March 25, 1902, be amended so as to read as follows:

Notice of appeal to circuit court and undertaking therefor.

Sec. 5227. A party desiring to appeal his cause to the circuit court, shall, within three days after the judgment or order is entered, file with the clerk of [the] common pleas court written notice of such intention, and within thirty days after the entering of such judgment or order, give an undertaking with sufficient surety, to be approved by the clerk of the court or a judge thereof, as hereinafter provided.

Repeals.

SECTION 2. That section 5227 of the Revised Statutes of Ohio, as amended March 25, 1902, be and the same is hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 6 G

[House Bill No. 41.]

AN ACT

To amend an act entitled "An act for the benefit of John Doyle, of Middletown, Butler county, Ohio," passed May 9, 1902, and to repeal said act passed May 9th, 1902.

Be it enacted by the General Assembly of the State of Ohio:

Warrant in favor of John Doyle.

SECTION 1. That the auditor of state be, and is hereby authorized to issue his warrant on the state treasurer for the sum of one hundred dollars, in favor of John Doyle, of Middletown, Butler county, Ohio, as bounty to said John Doyle for re-enlisting in company C, 25th regiment, O. V. I.; and that there is hereby appropriated from any moneys in the treasury of the state of Ohio to the credit of the general revenue fund, and not otherwise appropriated, the sum of one hundred dollars for the payment of this claim.

SECTION 2. This act shall take effect and be in force from and after its passage, and said act passed May 9th, 1902, is hereby repealed.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 7 G

[House Bill No. 23.]

AN ACT

To fix the compensation of deputy state supervisors of elections and clerks.

Be it enacted by the General Assembly of the State of Ohio:

Compensation of members and clerks of boards of deputy state supervisors of elections.

SECTION 1. Each deputy state supervisor of elections and the clerks of boards of deputy state supervisors of elections shall receive for his services the sum of two ($2.00) dollars, for each election precinct in their respective counties for each election held in their said counties the returns of which are, or may be required by law to be made to the board of deputy state supervisors of elections, provided that the compensation paid each of said officers shall in no case be less than $100.00 per annum, which shall be paid out of the general revenue fund of the county treasury upon vouchers of such board made and certified by the chief deputy and the clerk thereof. Upon presentation of such voucher or vouchers the county auditor shall issue his warrant upon the treasurer for the amount thereof and the treasurer shall pay the same.

Repeals, etc.

SECTION 2. This act shall take effect and be in force from and after its passage; and all acts and parts of acts in conflict or inconsistent with the provisions of this act are hereby repealed, provided, however, that nothing in this act shall be so construed as to repeal, or operate, to repeal by implication, the act of April 29, 1902, entitled, "An act to amend section 4a supplementary of an act entitled, 'An act to create a state supervisor of elections, with deputy state supervisors for the conduct of elections in the state of Ohio,' passed April 18, 1892 (89 O. L., p. 455), as re-enacted and amended April 25, 1898 (93 O. L., p. 361), as amended April 16, 1900," (94 O. L., 328).

W. S. MCKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 8 G

[House Bill No. 32.]

AN ACT

To make sundry appropriations.

Be it enacted by the General Assembly of the State of Ohio:

Appropriations for sundry purposes.

SECTION 1. That the following sums for the purposes hereinafter specified, be and the same are hereby appropriated out of any money in the state treasury to the credit of the general revenue fund not otherwise appropriated, to-wit:

Judiciary.

For expenses of common pleas judges as provided in an act passed May 12, 1902, and known as Senate Bill No. 98, (95 O. L. p. 654), and for expenses of circuit judges as provided in an act passed May 12, 1902, and known as Senate Bill No. 198, (95 O. L. pp. 657-658)..... 20,000

Commissioner of Soldiers' Claims.

Office repairs and furniture..... 200

Archaeological and Historical Society.

For expenses of the centennial anniversary of the admission of Ohio into the union..... 10,000

To be paid out upon vouchers approved by [the] governor and secretary of said society.

Commission to Mark the Positions Occupied by Ohio Troops on the Battlefield of Antietam.

For the purpose of erecting a suitable monument to mark the place where Commissary Sergeant William McKinley issued rations to his regiment on the evening of that memorable battle, to-wit; September 17, 1862 in addition to $1,500 already appropriated..... 3,500

Boys' Industrial School.

For rebuilding barn and granary..... 6,500

For replacing harness, wagons, carriages, tools, farm machinery, etc..... 5,500

Ohio Shiloh Battlefield Commission.

For publication final report 5,000 volumes..... 3,000

SECTION 2. This act shall take effect on its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 9 G

[House Bill No. 45.]

AN ACT

To amend section 3865 [6835] of the Revised Statutes of Ohio, fixing the penalty for burglary.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 6835 of the Revised Statutes of Ohio be amended to read as follows:

Burglary; penalty for.

Sec. 6835. Whoever in the night season maliciously and forcibly breaks and enters any inhabited dwelling house with intent to commit a felony, or with intent to steal prop-

erty of any value, shall be imprisoned in the penitentiary during life; but upon recommendation of mercy by the jury shall be imprisoned not more than thirty years nor less than ten years; and whoever in the night season maliciously and forcibly breaks and enters, or attempts to break and enter, any uninhabited dwelling house, or any kitchen, smoke-house, shop, office, storehouse, warehouse, malt house, still-house, mill, pottery, factory, water craft, schoolhouse, church or meeting-house, barn or stable, railroad car, car factory, station-house, hall or any other building, or attempts to break and enter any inhabited dwelling house [houses] with intent to steal property of any value, or with intent to commit a felony, shall be imprisoned in the penitentiary not more than fifteen years, nor less than five years; and if any person shall have, or keep in his possession any tools, implements, or other things used by burglars for house breaking, forcing doors, windows, locks, or buildings, or other places where goods, wares, merchandise, or money is kept with the intention of using such tools or implements burglariously, shall be imprisoned in the penitentiary not more than five years, nor less than one year.

Attempts at burglary; penalty for.

Having possession of burglars' tools; penalty.

SECTION 2. That said section 6835 be, and the same is hereby repealed, and that this act shall take effect and be in force from and after its passage.

Repeals, etc.

W. S. McKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.
Passed October 22, 1902. 10 G

[House Bill No. 42.]

AN ACT

To authorize the auditor and treasurer of state to pay to the clerk of the court of common pleas of Erie county, Ohio certain money.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That the auditor of state be and he is hereby authorized and required to forthwith draw his warrant upon the treasurer of state in favor of the clerk of the court of common pleas of Erie county, Ohio, for the sum of eight hundred and twenty-five dollars; said amount being in full payment of the amount due Conrad Heidloff upon a judgment rendered in his favor and against L. H. Reutinger, Frank B. Shirley and David Sutton, in the court of common pleas of Erie county, Ohio, at the September term of said court for the year 1902, in cause No. 8733, wherein said Conrad Heidloff is plaintiff and L. H. Reutinger, Frank B. Shirley and David Sutton are defendants; and the said sum of eight hundred and twenty-five dollars is hereby appropriated out of any money in the general revenue fund of the

Appropriation for clerk of court of common pleas of Erie county.

state of Ohio not otherwise appropriated, for the purpose of paying said judgment.

SECTION 2. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.
Passed October 22, 1902. 11 G

[House Bill No. 2.]

AN ACT

To amend and supplement section 5301 and amend section 5302 of the Revised Statutes of Ohio.

Be it enacted by the General Assembly of the State of Ohio:

Exceptions:

SECTION 1. That section 5301 be amended and supplemented and section 5302 of the Revised Statutes be amended as follows, to-wit:

Filing of bills of exceptions.

Sec. 5301. When the decision is not entered on the record, or the grounds of the objection do not sufficiently appear in the entry, or the exception is to the decision of the court on a motion to direct a non-suit, or to arrest the testimony from the jury, or for a new trial for misdirection, by the court to the jury, or because the verdict, or if a jury is waived, the finding of the court is against the law and the evidence, or on the admission or rejection of evidence the party excepting must reduce his exceptions to writing, and file the same in the cause within forty days after the overruling of the motion for a new trial, or the decision of the court, where a motion for a new trial is not filed, thereupon the clerk shall forthwith notify the adverse party, or his attorney, of the filing of such bill. Within ten days, after such 40 days, any other such party may file in the cause any objection or amendment he may propose to the bill. The clerk of said court, at a time, not less than twelve, nor more than fifteen days, after forty days from the overruling of the motion for a new trial shall transmit to the trial judge or judges, the bill, together with all objections and amendments, if any, filed thereto.

Duty of clerk.

Transmission of bill to trial judge or judges.

Duty of trial judge.

Sec. 5301*a*. It shall be the duty of the trial judge or judges upon receipt of the bill to endorse thereon the date it was received by him or them and within five (5) days after the receipt of the bill, and the objections or amendments thereto, if any, to correct the bill if necessary and allow and sign the bill and immediately transmit or cause the same to be transmitted to the office of the clerk of the court. Provided, that in case the trial judge or judges be absent from the district or circuit when such bill of excep-

Absence, sickness, death, expiration of term etc., of judge.

tions is prepared and filed with the clerk, then the same shall be retained by the clerk until the return of the trial judge or judges, who shall be required to allow and sign the same and correct the same if necessary within five days from the date of the receipt of the same and immediately transmit, or cause the same to be transmitted to the office of the clerk of the court, and provided further, that in case the trial judge of any district is sick and unable to attend to such settling and signing of the bill, or in case of the death of such trial judge, or expiration of term of office or other disability, then the clerk of the court shall forward such bill to any other judge of such district, upon being requested by the counsel for the party preparing such bill, and such judge shall settle and sign the same on or before five days after it is received by him. Provided further that any such judge or judges may at his or their discretion extend the time for signing such bill of exceptions for a period not exceeding ten days beyond the expiration of the period aforesaid for filing, considering and signing such bill; which extension must be endorsed on the bill of exceptions by such judge or judges. The signatures of any two judges of any circuit court shall be sufficient upon any such bill.

Extension of time for signing.

Sec. 5301*b*. It shall be the duty of the clerk of the court in which the cause is pending, to enter upon the appearance docket thereof, the date of the filing of any bill of exceptions in such court; also, the date of the filing of any objections or proposed amendments and also of the transmission of the same to the judge or judges and the date of the receipt of the same from the judge or judges.

Entries upon appearance docket.

Sec. 5302. It shall not be necessary to cause an entry to be made upon the journal of the court of the settling, allowance and signing of any bill of exceptions; but the signature of the trial judge, or other judge mentioned in Sec. 5301*a* allowing, settling and signing such bill, shall be sufficient evidence of such fact.

SECTION 2. That sections 5301 and 5302 of the Revised Statutes of the state of Ohio be and the same are hereby repealed. This act shall be held to apply, after January 1st, 1903, to all pending cases.

Repeals.

SECTION 3. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

H. L. GORDON,
President of the Senate.

Passed October 22, 1902. 12 G

[Senate Bill No. 26.]

AN ACT

To amend section 3821*gg* of the Revised Statutes of Ohio.

Be it enacted by the General Assembly of the State of Ohio:

Savings and loan associations:

SECTION 1. That section 3821*gg* of the Revised Statutes of Ohio be, and the same is, hereby amended so as to read as follows:

May exercise powers of safe deposit and trust company.

Sec. 3821*gg*. That any company now incorporated under the laws of the state of Ohio, as a savings and loan association, and having at the time of the passage of this act, a paid up capital stock of not less than two hundred thousand dollars, and organized and doing business in this state, or any company heretofore organized under the laws of this state, as a safe deposit and trust company, may also engage in business as a safe deposit and trust company, under and in accordance with the provisions of sections 3821*a*, 3821*b*, 3821*c*, 3821*d*, 3821*e*, 3821*g*, of the Revised Statutes of Ohio. Provided, however, that no such company shall be authorized to engage in business as such safe deposit and trust company, until after the holders of at least two-thirds in amount, of the capital stock of such company shall have voted in favor of so doing, at a meeting of the stockholders called for the purpose of considering such question. Upon the stockholders of any such company voting in favor of a resolution to engage in business as a safe deposit and trust company, as provided in this act, the president and secretary of such corporation shall make, and file with the secretary of state a certificate under the seal of such corporation, showing the action of the stockholders in this behalf, and the number of shares voted in favor of the proposition, and thereupon such corporation shall have all the powers, and be subject to all the regulations, obligations, liabilities and conditions which safe deposit and trust companies have and are subject to, under the several sections of the Revised Statutes to which this act is supplemental.

Stockholders' consent necessary.

Certificate to be filed with secretary of state; what it shall contain.

Repeals, etc.

SECTION 2. That said original section 3821*gg*, be, and the same is hereby repealed; and this act shall take effect on its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 13 G

[Senate Bill No. 28.]

AN ACT

To provide a state commission to report on feasibility and desirability of the state caring for, treating and educating crippled and deformed children.

Be it enacted by the General Assembly of the State of Ohio:

Commission to investigate feasibility and desirability of state caring for, etc., deformed children; appointment.

SECTION 1. That a state commission shall be appointed by the governor within two months after the passage of this act to investigate and report upon the necessity, feasibility and desirability of the state taking up the charitable work of providing an institution for the care, treatment and education of crippled and deformed children.

Number of members; duty.

SECTION 2. Said commission shall consist of five persons, who shall make investigation and report to the governor on or before the first day of December, 1903, and said report shall be transmitted by the governor to the general assembly at the next session thereof.

Oath.

SECTION 3. The five members of said commission shall before entering upon the discharge of their duties severally take an oath or affirmation to faithfully discharge the duties of their appointment and shall organize by electing one of their members as president and one as secretary.

Appropriation.

SECTION 4. The sum of one thousand dollars ($1,000.00) is hereby appropriated out of any money in the state treasury to the credit of the general revenue fund not otherwise appropriated, to pay the actual expenses of each of said commissioners and for clerical help, postage and stationery, to be paid upon certificate of the president of said commission.

SECTION 5. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 14 G

[Senate Bill No. 1.]

AN ACT

To provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such powers, as required by the constitution of Ohio, and to repeal all sections of the Revised Statutes inconsistent herewith.

Be it enacted by the General Assembly of the State of Ohio:

I.

CLASSIFICATION OF MUNICIPALITIES.

Classification.

SECTION 1. All municipal corporations, which, at the last federal census, had a population of five thousand or more, shall be cities. All other municipal corporations shall be villages. All cities which, at any future federal census, have a population of less than five thousand shall become villages. All villages which, at any future federal census, have a population of five thousand or more, shall become cities.

Advancement and reduction.

SECTION 2. When this act takes effect, and whenever the result of any future federal census is officially made known to the secretary of state, he shall forthwith issue a proclamation, stating the names of all municipal corporations having a population of five thousand or more, and the names of all municipal corporations having a population of less than five thousand, together with the population of all such corporations. A copy of said proclamation shall forthwith be sent to the mayor of each municipal corporation, which copy shall be forthwith transmitted to council, shall be read therein and made a part of the records thereof, and from and after thirty days after the issuance of said proclamation each municipal corporation shall be a city or village, in accordance with the provisions of this act. All officers of a village advanced to a city, or of a city reduced to a village, shall continue in office until succeeded by the proper officers of the new corporation at the next regular election, and the ordinances thereof not inconsistent with the laws relating to the new corporation shall continue in force, until changed or repealed.

Abolishment of township offices when boundaries of municipality become identical with those of township; exception.

SECTION 3. When the corporate limits of a city or village become identical with those of a township, all township offices shall be abolished, and the duties thereof shall thereafter be performed by the corresponding officers of the city or village, excepting that justices of the peace and constables shall continue to exercise their functions under municipal ordinances providing offices, regulating the disposition of their fees, their compensation, clerks and other officers and employes, and such justices and

constables shall be elected at municipal elections. All property, moneys, credits, books, records and documents of such township shall be delivered to the council of said city or village, and all rights, interests or claims in favor of or against the township may be enforced by or against the corporation.

Villages may surrender their corporate powers; procedure.

SECTION 4. Villages may surrender their corporate powers upon petition to council of at least forty per cent. of the electors thereof, to be determined by the number voting at the last municipal election, and an affirmative vote of a majority of said electors at a special election which shall be provided for by council, and conducted and canvassed, and the result certified and made known as regular municipal elections within the corporation. If the result of the election is in favor of such surrender, the clerk of the village shall certify the same to the secretary of state and the recorder of the county, who shall record the same in their respective offices, and thereupon the corporate powers of such village shall cease; provided that such surrender of corporate powers shall not affect vested rights or accrued liabilities of such village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations; but after the presentation of the petition herein referred to, council shall not create any new liability until the result of the election is declared, nor thereafter, if such result is in favor of the surrender of corporate powers; provided, further, that due and unpaid taxes may thereafter be collected, and all moneys or property remaining after such surrender shall belong to the school district embracing such village.

All courts shall take judicial notice of the classification of municipal corporations, and their advancement, reduction and surrender of powers.

Incorporation of villages.

SECTION 5. Villages may be created and incorporated in the manner now provided in title XII, division 2, chapter 2 of the Revised Statutes of Ohio.

Annexation and detachment of territory.

SECTION 6. Territory may be annexed to, or detached from, municipal corporations, in the manner now provided in title XII, division 2, chapter 5, of the Revised Statutes of Ohio and as also provided in an act entitled "An act to provide for detaching unplatted farm lands from cities and incorporated villages and for attaching the same to adjacent townships," passed April 23, 1902, Ohio Laws, vol. 95, page 259.

II.

POWERS OF MUNICIPALITIES.

1. GENERAL POWERS.

General powers of municipalities.

SECTION 7. Every city and village shall be a body politic and corporate, which shall have perpetual succession,

may use a common seal, sue and be sued, and acquire property by purchase, gift, devise, or appropriation for any municipal purpose herein authorized, and hold, manage and control the same and make any and all rules and regulations, by ordinance or resolution, that may be required to carry out fully all the provisions of any conveyance, deed or will, in relation to any gift or bequest. All municipal corporations shall have the following general powers and council may provide by ordinance or resolution for the exercise and enforcement of the same:

Riots, gambling, etc.

1. To prevent riot, gambling, noise and disturbance, indecent and disorderly conduct or assemblages, and to preserve the peace and good order, and protect the property of the corporation and its inhabitants.

Billiards, tenpins, etc.

2. To regulate billiard and pool tables, nine or tenpin alleys or tables, and shooting and ball alleys; and to authorize the destruction of instruments or devices used for the purpose of gambling.

Nuisance.

3. To prevent injury or annoyance from anything dangerous, offensive, or unwholesome; to cause any nuisance to be abated; and to regulate and compel the consumption of smoke, and prevent injury and annoyance from the same, and to regulate and prohibit the use of steam whistles.

Houses of ill fame.

4. To suppress and restrain disorderly houses and houses of ill fame, and to provide for the punishment of all lewd and lascivious behavior in the streets and other public places.

Intoxicating liquors.

5. To regulate ale, beer, porter houses and shops, and the sale of intoxicating liquors as a beverage. But nothing in this act shall be construed to amend, repeal or in any way affect the provisions of an act entitled, "An act to amend section 4364-20 of the Revised Statutes of Ohio, and to supplement said section by enacting supplementary sections 4364-20*a*, 4364-20*b*, 4364-20*c*, 4364-20*d*, 4364-20*e*, 4364-20*f*, 4364-20*g*, 4364-20*h* and 4364-20*i*," passed April 3, 1902, (95 O. L. 87.)

Taverns.

6. To regulate taverns and other houses for public entertainment.

Theatrical exhibitions and tickets.

7. To regulate, restrain or prohibit theatrical exhibitions and public shows of whatever name or nature, for which money or other reward is demanded or received; to regulate, by license or otherwise, the business of trafficking in theatrical tickets or other tickets of licensed amusements, by parties not acting as agents of those issuing the same, but public school entertainments, lecture courses and lectures on historic, literary or scientific subjects shall not come within the provisions of this section.

Auctions.

8. To regulate auctioneering; and to regulate, license or prohibit the sale at auction of goods, wares and merchandise or of live domestic animals at public auction in the streets or other public places within the corporation; and to regulate, license or prohibit the selling of goods, merchandise or medicines on the streets.

Carriages, drays, etc.

9. To regulate the use of carts, drays, wagons, hackney coaches, omnibuses, automobiles, and every description of carriages kept for hire or livery stable purposes; and to license and regulate the use of the streets by persons who use vehicles, or solicit or transact business thereon; to prevent and punish fast driving or riding of animals, or fast driving or propelling of vehicles through the public highways; to regulate the transportation of articles through such highways and to prevent injury to such highways from overloaded vehicles, and to regulate the speed of interurban, traction and street railway cars within the corporation.

Animals running at large.

10. To regulate, restrain and prohibit the running at large, within the corporation, of cattle, horses, swine, sheep, goats, geese, chickens and other fowls and animals, and to impound and hold same, and on notice to the owners, to authorize the sale of the same for the penalty imposed by any ordinance, and the cost and expenses of the proceedings; and to regulate or prohibit the running at large of dogs, and provide against injury and annoyance therefrom, and to authorize the disposition of the same when running at large contrary to the provisions of any ordinance.

Explosives.

11. To regulate the transportation, keeping and sale of gunpowder and other explosives or dangerous combustibles and materials and to provide or license magazines for the same.

Weighing.

12. To regulate the weighing and measuring of hay, wood and coal and other articles exposed for sale, and to provide for the seizure, forfeiture and destruction of weights and measures, implements and appliances for measuring and weighing which are imperfect or liable to indicate false or inaccurate weight or measure, or which do not conform to the standards established by law and which are known, used or kept to be used for weighing or measuring articles to be purchased, sold or offered or exposed for sale.

Buildings, fences, etc.

13. To regulate the erection of buildings and the sanitary condition thereof, fences, bill boards, signs, and other structures within the corporate limits; to require and regulate the numbering and renumbering of buildings by the owners or occupants thereof; to regulate the repair of, alteration in and addition to buildings; to provide for the construction, erection and placing of elevators, stairways and fire escapes in and upon build-

ings; to regulate the construction and repair of wires, poles, plants and all equipment to be used for the generation and application of electricity; to provide for the removal and repair of insecure buildings, bill boards, signs and other structures, and to provide for the inspection of all buildings or other structures and for the licensing of house-movers, plumbers and sewer-tappers and vault cleaners.

Police and fire departments.

14. To organize and maintain police and fire departments, erect the necessary buildings and purchase and hold all implements and apparatus required therefor.

Waterworks.

15. To provide for a supply of water, by the construction of wells, pumps, cisterns, aqueducts, water pipes, reservoirs and waterworks, and for the protection thereof, and to prevent unnecessary waste of water, and the pollution thereof, and to apply moneys received as charges for water to the maintenance, construction, enlargement and extension of the works, and to the extinguishment of any indebtedness created therefor; and to establish and maintain municipal lighting, power, and heating plants, and to establish, maintain and operate natural gas plants and to furnish the municipality and the inhabitants thereof with natural gas for heating, lighting and power purposes, and to acquire by purchase, lease or otherwise the necessary lands for such purposes, within and without the municipality.

Lighting, power and heating plants.

Health.

16. To provide for the public health; to secure the inhabitants of the corporation from the evils of contagious, malignant and infectious diseases, and to erect, maintain and regulate pest houses, hospitals and infirmaries.

Cemeteries and crematories.

17. To provide public cemeteries and crematories for the burial or incineration of the dead and to regulate public and private cemeteries and crematories.

Streets.

18. To lay off, establish, plat, grade, open, widen, narrow, straighten, extend, improve, keep in order and repair, light, clean and sprinkle streets, alleys, public grounds, places and buildings, wharves, landings, docks, bridges, viaducts and market places within the corporation, including any portion of any turnpike or plank road therein, surrendered to or condemned by the corporation; to regulate public landings, public wharves, public docks, public piers and public basins, and to fix the rates of landing, wharfage, dockage and use of the same; and to regulate the planting, trimming and preservation of shade trees in public places and grounds.

Canals and sewers.

19. To construct, open, enlarge, excavate, improve, deepen, straighten, or extend any canal, ship canal or water course located in whole or in part within the corporation, or lying contiguous and adjacent thereto; to

open, construct and keep in repair sewage disposal works, sewers, drains and ditches, to license ferries, to regulate the use of public docks and public landings, and to establish, repair and regulate water-closets and privies.

Jails, morgues, etc.

20. To establish, erect, maintain and regulate jails, morgues, houses of refuge and correction, workhouses, station houses, prisons and farm schools.

Public buildings, etc.

21. To establish, erect and maintain public halls, public buildings and market houses; to regulate markets, and provide for the inspection of spirits, oils, milk, breadstuffs, meats, fish, cattle, milk-cows, sheep, hogs, goats, poultry, game, vegetables and all food products.

Bath houses, libraries, etc.

22. To establish, maintain and regulate public baths and bath houses; and free public band concerts; to establish, maintain and regulate free public libraries and reading rooms, and to purchase books, papers, maps and manuscripts therefor, and to receive donations and bequests of money or property for the same, in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries established and managed by a private corporation or association organized for that purpose.

Hospitals.

23. To provide for the rent and compensation for the use of any existing free public hospital established and managed by a private corporation or association organized for that purpose.

Immoral literature.

24. To restrain and prohibit the distribution, sale and exposure for sale of books, papers, pictures and periodicals or advertising matter of an obscene or immoral nature.

Sewage disposal.

25. To provide for the collection and disposition of sewage, garbage, ashes, animal and vegetable refuse, dead animals and animal offal and to establish, maintain and regulate plants for the disposal thereof.

Public grounds, parks and boulevards.

26. To hold and improve public grounds, parks, park entrances and boulevards, to protect and preserve the same and to acquire by purchase, gift, devise, condemnation or otherwise and to hold real estate or any interest therein and other property for the use of the corporation and to sell or lease the same.

Census.

27. To take and authenticate a census of the municipality.

Conductors on street cars.

28. To require the employment of conductors on all street cars within the corporate limits.

Penalty for violation of ordinances.

29. To make the violation of ordinances a misdemeanor, and to provide for the punishment thereof by fine or imprisonment, or both; provided, that such fine shall not exceed five hundred dollars and such imprisonment shall not exceed six months.

Other powers.

SECTION 8. All municipal corporations shall have the powers conferred by general law in sections 2108, 2109, 2110, 2111, 2112, 2149, 2150, 2151, 2152, 2516, 2517, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2533*a*, 2669, 2669*b*, 2669*c*, 2670, 2670-1, 2671 and 2672, of the Revised Statutes of Ohio and all other acts or parts of acts not inconsistent herewith, and having uniform operation throughout the state.

2. SPECIAL POWERS.

Special powers of municipalities.

SECTION 9. All municipal corporations shall have the following special powers, which shall be exercised in the manner hereinafter provided:

First. To appropriate property for public purposes.

Second. To sell or lease public property.

Third. To regulate the use of streets.

Fourth. To levy and collect taxes.

Fifth. To levy and collect special assessments.

Sixth. To borrow money.

Seventh. To maintain and protect a sinking fund.

FIRST. APPROPRIATION OF PROPERTY.

Appropriation of property; purposes.

SECTION 10. All municipal corporations shall have power to appropriate, enter upon and hold, real estate within their corporate limits, for the following purposes:

1st. For opening, widening, straightening, changing the grade of and extending streets and all other public places, and for this purpose the corporation may appropriate the right of way across railway tracks and lands held by railway companies where such appropriation will not unnecessarily interfere with the reasonable use of the property so crossed by such improvement; and for obtaining material for the improvement of streets and other public places.

2d. For parks, park entrances, boulevards, market places and children's playgrounds.

3d. For public halls and offices, and for all buildings and structures required for the use of any department.

4th. For prisons, workhouses, houses of refuge and correction, and farm schools.

5th. For hospitals, pest houses, reformatories, crematories and cemeteries.

6th. For levees, wharves and landings.

7th. For bridges, aqueducts, viaducts and approaches thereto.

8th. For libraries, university sites and grounds for the same.

9th. For constructing, opening, excavating, improving or extending any canal, or water course, located in whole or in part within the limits of the corporation, or adjacent and contiguous thereto, and which is not owned in whole or in part by the state, or by a company or individual authorized by law to make such improvements.

10th. For sewers, drains, ditches, public urinals, bath houses, water-closets, and sewage and garbage disposal plants and farms.

11th. For waterworks, natural and artificial gas, and electric lighting, heating and power plants, and for supplying the products thereof.

In what cases property may be appropriated outside of municipality; proviso.

SECTION 11. In the appropriation of property for any of the purposes named in the preceding section, the corporation may, whenever the same is reasonably necessary, acquire property outside the limits of the corporation; but no land shall be appropriated or obtained for public cemeteries within two hundred yards of any dwelling house without the consent, in writing, of the owner of the tract of land on which such dwelling house may be situated.

Resolution and notice of intent to appropriate.

SECTION 12. Whenever it is deemed necessary to appropriate property, council shall pass a resolution, declaring such intent, defining the purpose of the appropriation, and setting forth a pertinent description of the land desired to be appropriated; and for waterworks purposes the council may appropriate such property as it may determine to be necessary; and immediately upon the passage of such resolution, declaring such intent, for which but one reading shall be necessary, the mayor shall cause written notice thereof to be given to the owner, person in possesion of, or having an interest of record in, every piece of property sought to be appropriated, or to his authorized agent, and such notice shall be served by a person designated for the purpose, and return made in the manner provided by law for the service and return of summons in civil actions, and in case said owner, persons or their agents cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the corporation; and council may thereupon pass an ordinance by the votes of two-thirds of all members elected thereto, directing said appropriation to proceed.

Ordinance.

Application to court, etc.

SECTION 13. Upon passage of the aforesaid ordinance, the solicitor shall make application to the court of common pleas, or to a judge thereof in vacation, to the pro-

bate court, or to the insolvency court in the county in which the land sought to be taken is located, which application shall describe as correctly as possible the land to be appropriated, the object proposed, and the name of the owner of each lot or parcel thereof.

Service of notice to owners of property.

SECTION 14. Notice of the time and place of such application shall be given in the ordinary manner of serving legal process, to all owners or agents of owners resident in the state, whose place of residence is known, and to all others by publishing the substance of the application, with a statement of the time and place at which it is to be made, once a week for three weeks next preceding the time of the application in some newspaper of general circulation in the county.

Court to fix time for inquiry, etc.

SECTION 15. If it appear that such notice has been served five days before the time of application, or has been duly published, or that such notice has been waived, the court shall set a time for the assessment of compensation by a jury; provided, that the same may be made at a special term of court, and the jury shall be drawn and the trial proceed as in other civil actions.

View of premises may be required.

SECTION 16. A view of the premises shall be ordered when desired by the jury or demanded by any party to the proceedings.

Guardian ad litem.

If, at the time of the application, it appear that any of the owners of the property sought to be taken are infants or insane, and that they have no guardian, a guardian ad litem shall be appointed in their behalf; and no delay in the proceedings shall be occasioned by doubt as to the ownership of any property, or as to the interests of the respective owners, but in such cases the court shall require a deposit of the money allowed as compensation for the whole property or the part in dispute; and in all cases, as soon as the corporation shall have paid the compensation assessed, or secured its payment by a deposit of money under the order of the court, possession of the property may be taken.

How jury to return assessment; open and close of case.

The assessment shall be in writing, signed by the jury, and shall be so made that the amount payable to the owners of each lot or parcel of land may be ascertained. The owners shall have the right to open and close the case. When a building or other structure is situated partly upon the land to be appropriated, and partly upon adjoining land, and such structure cannot be divided upon the line between such lands, without manifest injury, the jury in assessing compensation to any owner of the land, shall assess the value of the same, exclusive of the structure, and make a separate estimate of the value of the structure; the owner of the structure may elect to retain the same and remove it, or to accept the value thereof as estimated by the jury; if he fail to make such election, within ten days from the final determination of the cause,

he shall be deemed to have elected to accept the value of the structure, as fixed by the jury.

Verdict in whole or in part.

SECTION 17. The jury shall be sworn to make the whole inquiry and assessment, but may return a verdict as to part and be discharged as to the rest, in the discretion of the court; and in case a jury is discharged from rendering a verdict in whole or in part, another shall be drawn and impaneled at the earliest convenient time, who shall make the whole inquiry and assessment, or the part not made.

Orders as to payment or deposit of assessment.

SECTION 18. The court shall make such order as to payment, deposit or distribution of the amount assessed as may seem proper, may require adverse claimants to all or any part of the money or property to interplead and fully determine their rights in the same proceeding, and may direct the time and manner in which possession of the property condemned shall be taken or delivered, and may, if necessary, enforce any order giving possession.

Costs, how paid.

SECTION 19. The costs of the inquiry and assessment shall be paid by the corporation, and all other costs taxed as the court may direct; provided, that at or after the time of making the application, the corporation may offer to confess judgment for an amount to be stated, and the costs then made, in favor of any owner, who in any manner enters appearance, or upon whom or whose agent personal service may be made; whereupon, if such owner shall refuse to accept such offer, and on the trial shall not recover more, he shall pay all costs accruing after the offer, and an offer so made shall be governed by the provisions of section 5142 of the Revised Statutes of Ohio.

Interested parties may give bond, etc.

SECTION 20. Any person may, before or after the passage of an ordinance for opening a street or other public highway, execute his bond payable to the corporation to the acceptance of council, conditioned for the payment of all damage which may be assessed by the jury; and such bond shall be good in law, and if such person pay or deposit according to the order of court, then such street or other highway shall be opened; or the corporation may at its discretion make such payment or deposit, and collect by law the amount of such damages of such person or his sureties.

Review of proceedings.

SECTION 21. The municipal corporation, or the owner of any property, the value of which has been assessed, as herein provided, shall have the right to prosecute error as in other civil actions; provided, that the trial court may, upon proper terms, suspend the execution of any order, but in all cases where the municipal corporation pays or deposits the compensation assessed, and gives adequate security for any further compensation and costs,

the right to take and use the property condemned shall not be affected by any such review.

Appeal to court of common pleas.

Where the proceeding is had in the probate court, or in the insolvency court, any party interested in the inquiry and assessment may take an appeal to the court of common pleas; and thereupon the same proceedings shall be had as if the application had been originally made in that court, except that the corporation shall not be required to give notice of its application, and the inquiry and assessment shall be limited to the case of the party taking the appeal; and the court shall make such order for the payment of the costs accruing upon the appeal as may seem equitable and just.

Neglect to pay or take possession in six months.

SECTION 22. When a municipal corporation makes an appropriation of property, and fails to pay for or take possession of the same within six months after the assessment of compensation shall have been made, its right to make such appropriation on the terms of the assessment so made shall cease and determine, and any lands so appropriated shall be relieved from all incumbrance on account of any of the proceedings in such case, and the judgment or order of the court directing such assessment to be paid shall cease to be of any effect, except as to the costs adjudged against the corporation, and upon motion of any defendant, said costs may be retaxed, and a reasonable attorney's fee be paid to the attorney of such defendant, which, together with any other proper expenses incurred by such defendant, may be included in such costs.

Attorney's fees.

SECOND. SALE OR LEASE OF PROPERTY.

Lease or sale of corporate property.

SECTION 23. All municipal corporations shall have power to sell or lease any real estate or to sell any personal property belonging to the corporation, when such real estate or personal property is not needed for any municipal purpose.

Lease or sale of real estate.

SECTION 24. No contract for the sale or lease of any real estate shall be made unless authorized by an ordinance approved by the votes of two-thirds of all members elected to council, and by the board or officer having the supervision or managmeent of said real estate, and when such contract is so authorized it shall be made in writing by the board or officer having such supervision or management, and only with the highest bidder after advertisement once a week for five consecutive weeks in a newspaper of general circulation within the corporation; provided, that such board or officer may reject any or all bids and readvertise until the said real estate is sold or leased as the case may be.

Sale of personal property.

SECTION 25. Any personal property not needed for municipal purposes, the estimated value of which is less than five hundred dollars, may be sold by the board or

officer having supervision or management of the same; provided, that where the estimated value of such property exceeds five hundred dollars it shall be sold only in the manner herein provided for the sale or lease of real estate.

Disposition of money arising therefrom.

SECTION 26. The money arising from the sale or lease of any real estate or the sale of any personal property belonging to the corporation shall be paid into the treasury to the credit of the particular fund by which such property was acquired, if there be such fund, and if not then to the credit of the general fund.

SECTION 27. In the sale, exchange or transfer of the property herein described sections 2675-1, 2675-2, 2675-3, 2675-4, 2675-6, 2675-7, 2675-8 and 2675-9, of the Revised Statutes of Ohio shall be and remain in full force and effect.

THIRD. STREETS AND THEIR USE.

Council to have control of streets, etc.

SECTION 28. In all municipal corporations council shall have the care, supervision and control of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the corporation, and shall cause the same to be kept open and in repair and free from nuisance; and with respect to the dedication, opening and vacation of streets, as well as labor upon them, sections 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2649-1, 2649-2, 2649-3, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2660, 2661, 2662, 2664, 2664-1, 2664-2, 2664-3, 2664-4, 2664-5, 2664-6, 2664-7, 2664-8, 2664-9, 2664-10, 2664-11, 2664-12, 2664-13 and 2664-14 shall be and remain in full force and effect.

Street railways; who may grant authority to construct street railway; proviso.

SECTION 29. The right so to construct or extend such railway as provided in section 3437 Revised Statutes of Ohio, within or beyond the limits of a municipal corporation can be granted only by the council thereof, by ordinance, and the right to construct such railway within or beyond the limits of an unincorporated village can be granted only by the county commissioners, by order entered on their journal; and after said grant or renewal of any grant shall have been made, whether by general or special ordinance, or by the order of the county commissioners, neither the municipal corporation nor the county commissioners shall release the grantee from any obligations or liabilities imposed by the terms of said grant or renewal of a grant during the term for which said grant or renewal shall have been made. Provided, that no authority shall be given by such municipal or county authorities, to occupy the track, whether single or double, or other structure, of any existing street railways for more than one-eighth of the entire distance between the termini of the route, as actually constructed, operated and run over, of the company or individual to whom

such grant is made; except, however, in granting permission to extend existing routes in cities, such cities, and the companies owning such route, shall have the same rights and powers they have under the laws and contracts now existing; and that no extension of any street railroad located wholly without any such city, or of any street railroad wherever located, which has been or shall be built in pursuance of a right obtained from any source or authority other than a municipal corporation, shall be made within the limits of such city, except as a new route, and subject to the provisions of section 2501 of the Revised Statutes of Ohio and section 30 of this act.

Proceedings to establish a street railway route.

SECTION 30. Nothing mentioned in section 2501 of the Revised Statutes of Ohio shall be done; no ordinance or resolution to establish or define a street railroad route shall be passed, and no action inviting proposals to construct and operate such railroad shall be taken by the council; and no ordinance for the purpose specified in section 2501 of the Revised Statutes of Ohio shall be passed until public notice of the application therefor has been given by the clerk of the corporation once a week, for the period of at least three consecutive weeks in one or more of the daily papers, if there be such, and if not, then in one or more weekly papers published in the corporation; and no such grant as mentioned in section 2501 of the Revised Statutes of Ohio shall be made, except to the corporation, individual or individuals, that will agree to carry passengers upon such proposed railroad at the lowest rates of fare, and shall have previously obtained the written consent of a majority of the property holders upon each street or part thereof, on the line of the proposed street railroad, represented by the feet front of the property abutting on the several streets along which such road is proposed to be constructed; provided, that no grant nor renewal of any grant for the construction or operation of any street railroad, shall be valid for a greater period than twenty-five years from the date of such grant or renewal; and after such grant or renewal of a grant is made, whether by special or general ordinance, the municipal corporation shall not, during the term of such grant or renewal, release the grantee from any obligation or liability imposed by the terms of such grant or renewal of a grant.

Grant not valid for more than twenty-five years.

Vested rights and contracts already entered into not to be impaired or enlarged by this act.

SECTION 31. Nothing herein contained shall be construed to impair the rights of abutting property owners, where unnecessary or additional burdens are placed upon the streets by operation of any grants herein authorized to be made, and nothing in this act, or any part thereof, shall be construed to impair or enlarge the rights of any corporation now using the streets of any municipality in the state under authority of any law now or heretofore in force; but all unexpired grants of rights or franchises heretofore made by any municipality, in accordance with the provisions of any statute or act of the general assem-

Certain unexpired franchises are hereby regranted.

bly existing at the time when they were made, and which have been accepted and where money has been expended in good faith on account thereof, are hereby regranted for such unexpired portion of the respective periods of the original grants in accordance with the terms and conditions of the same; any law, or part of law, to the contrary notwithstanding.

FOURTH. TAXATION.

Power of council to levy and collect taxes.

SECTION 32. The council of every municipal corporation shall have power to levy and collect taxes upon all the real and personal property within the corporation for the purpose of paying the expenses of the corporation, constructing all improvements authorized, and exercising all the general and special powers conferred by law.

Maximum of municipal taxes allowable in municipalities.

SECTION 33. The aggregate of all taxes levied by any municipal corporation, exclusive of the levy for county and state purposes, for schools and schoolhouse purposes, for free public libraries and library buildings, for university and observatory purposes, for hospitals, and for sinking fund and interest, on each dollar of valuation of taxable property in the corporation on the tax list, shall not exceed in any one year ten mills.

When greater tax may be levied; submission of question to vote.

SECTION 34. A greater tax than that authorized herein may be levied by the council of any municipal corporation for any purpose for which such corporation is authorized to levy taxes, if the proposition to make such additional levy shall be first submitted to a vote of the electors of the corporation under an ordinance prescribing the time, place and manner of voting on the same, and approved by two-thirds of those voting on the proposition.

Heads of departments to report estimates to mayor and auditor or clerk.

SECTION 35. On or before the first Monday in March of each year the several officers, boards and departments in every municipal corporation, shall report an estimate, in itemized form, to the mayor and auditor or clerk of the corporation, stating the amount of money needed for their respective wants for the incoming year and for each month thereof.

Statements to be furnished by city auditor and village clerk.

SECTION 36. On or before the first Monday in April of each year the auditor of every city and clerk of every village shall furnish to the mayor and council and to each member thereof, the following statements, which council may require to be printed:

1. A statement showing the balance standing to the credit or debit of the several funds on the balance sheet of the corporation at the end of the last fiscal year immediately preceding said first Monday of April.

2. A statement showing the monthly expenditures out of each fund in the twelve months, and the monthly

expenditures out of all the funds in the twelve months of the fiscal year immediately preceding said first Monday of April.

3. A statement showing the annual expenditures from each fund for each year for the five fiscal years immediately preceding said date.

4. A statement showing the monthly average of such expenditures from each of the several funds for the preceding fiscal year, and also the total monthly average from all of them for the five preceding fiscal years.

Reports to mayor and council.

SECTION 37. The directors and officers provided for in this act shall upon request forthwith furnish to the mayor or council any information desired in relation to the affairs of their respective offices. To enable the mayor to make up his annual budget, it shall be the duty of each director or board and of each officer provided for in this act, on or before the last Monday in March of each year, to make and file with said mayor, and also with the auditor, a carefully prepared and itemized estimate of the amount of money needed in such department or office for all purposes for the ensuing year, beginning on the first day of the next April, said estimate to be given for each month.

Heads of departments to report estimates to mayor and auditor.

Mayor's report to council.

SECTION 38. The mayor shall communicate to council from time to time, a statement of the finances of the municipality and such other information relating thereto and to the general condition of the affairs of the municipality as he may deem proper or as may be required by council. He shall on the first day of April of each year submit to council the annual budget of current expenses of the municipality, any item of which may be reduced or omitted by council, but council shall not increase the total of said budget. In the making of such annual budget, the mayor shall have power to revise and change any and all items in the annual estimates furnished to him by the directors and officers of the municipality as prescribed in this act, but said mayor shall not have power to increase the total of any such estimate when including the same in his annual budget to council. He shall on said date, and at such other times as he may deem expedient, report to council concerning the affairs of the corporation, and make such recommendations to council as he may deem proper for the welfare of the municipality.

Annual budget; how made up, etc.

Board of examiners; appointment, qualifications, duties, etc.

He may at any time appoint competent, disinterested persons, not exceeding three in number, not more than two of whom shall be of the same political party, to examine without notice the affairs of any department, director, officer or employe in the city government, for the purpose of ascertaining facts; in connection with such examination, the mayor or such appointees shall have full

power to compel the attendance and testimony of witnesses, to administer oaths and to examine such persons as they shall deem necessary, and to compel the production of books and papers; and the result of such examination shall be recorded in the office of said mayor and shall also be transmitted by him to the council without delay and the council shall give to said examiners reasonable compensation for such services.

Duty of council as to examination, etc., of annual budget.

SECTION 39. The council shall examine and revise the annual budget submitted by the mayor as provided in the next preceding section of this act, and after it shall have determined by ordinance the percentage to be levied for the several purposes allowed by law upon the real and personal property in the corporation returned on the grand duplicate the same shall be submitted by the council to the board of tax commissioners hereinafter provided, which board of tax commissioners shall examine and return same to the council within ten days, as provided by law, together with such suggestions and recommendations as it may deem proper.

Duty of board of tax commissioners.

Percentage of tax to be certified to county auditor; his duty thereupon.

SECTION 40. Council shall cause to be certified to the auditor of the county, on or before the first Monday in July, annually, the rate of taxes levied by it on the real and personal property in the corporation returned on the grand duplicate, who shall place the same on the tax list of the county in the same manner as township taxes are by law placed thereon; the ordinance prescribing the levy shall specify distinctly each and every purpose for which the levy is made and the per cent. thereof, and the county auditor if he finds that the tax levy certified to him by the council of any city or village exceeds the aggregate limit allowed by law, shall have no authority to place the same on the tax list and the levy for such municipal corporation shall not be valid or collectible against any real or personal property in the corporation. If such tax levy is in excess of the limit allowed by law then the auditor shall immediately notify the council making such levy and council shall within ten days after the receipt of such notification revise its levy so as to bring it within the law.

Corporation taxes; how collected.

Duty of corporation treasurer.

SECTION 41. The taxes of the corporation shall be collected by the county treasurer and paid into the treasury of the corporation in the same manner and under the same laws, rules and regulations as are or may be prescribed for the collection and paying over of state and county taxes; and the corporation treasurer shall keep a separate account with each fund for which taxes are assessed, which account shall be at all times open to public inspection. Unless expressly otherwise provided by law, all money collected or received on behalf of the corporation shall be promptly deposited in the corporation treasury in the appropriate fund, and the treasurer shall

thereupon give notice of such deposit to the auditor or clerk; and unless otherwise provided by law no money shall be drawn from the treasury except upon the warrant of the auditor pursuant to an appropriation by council.

Fiscal year.

SECTION 42. In all municipal corporations the fiscal year of each office, board and department shall terminate on the thirty-first day of December, in each year, and all accounts shall be closed on that day, and all annual reports required by law shall be made for the year terminating on that day.

Council to make appropriations at beginning of each fiscal half year.

SECTION 43. In all municipal corporations council shall make, at the beginning of each fiscal half year, appropriations for each of the several objects for which the corporation has to provide, out of the moneys known to be in the treasury, or estimated to come into it during the six months next ensuing from the collection of taxes and all other sources of revenue. All expenditures within the following six months shall be made with and within said appropriations and balances thereof. All unexpended appropriations or balances of appropriations remaining over at the end of the year and all balances remaining over at any time after a fixed charge shall have been terminated by reason of the object of the appropriation having been satisfied or abandoned, shall revert to the funds from which they were taken and they shall then be subject to such other authorized uses as council may determine; provided, that councils of cities or villages may at any time, by the votes of three-fourths of all the members elected thereto, and the approval of the mayor, transfer all or a portion of one fund or a balance remaining therein, to the credit of one or more funds, but there shall be no such transfer except among funds raised by taxation upon all the real and personal property in the corporation, and no such transfer shall be made until the object of the fund from which the transfer is to be effected has been accomplished or abandoned. In making the semiannual appropriations and apportionments herein required council shall have authority to deduct and set apart out of any moneys not otherwise appropriated such sum as it shall deem proper as a contingent fund to provide for any deficiency in any of the detailed appropriations so to be made, which deficiency may lawfully and by any unforseen emergency happen, and such contingent fund or any part thereof may be expended for any such emergency only by an ordinance passed by two-thirds of all the members elected to council and approved by the mayor, and any balance remaining in such contingent fund at the end of the fiscal year shall thereupon become a part of the general fund to be again appropriated as other moneys belonging to the corporation; provided, that the provisions of this section shall in no way interfere with the provisions of an act entitled

Unexpended appropriations or balances shall revert to fund from which taken.

Transfer of funds.

Contingent fund.

"An act to further provide for the transfer of public funds," passed May 6, 1902. (95 O. L., 371.)

Monthly statement of balances in all funds and accounts.

SECTION 44. The auditor or clerk, and the treasurer in all municipal corporations shall make up monthly, a statement of the balances in all funds and accounts in their offices, as the same exist at the close of business on the last day in the month, and such officers shall forthwith compare such statements, correct any errors in them, and at once forward a copy of the same to the mayor, who shall keep them for public inspection.

Restrictions as to contracts, appropriations and expenditures.

SECTION 45. No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money, be passed by the council or by any board or officer of a municipal corporation, unless the auditor of the corporation, and if there is no auditor, the clerk thereof, shall first certify to council that the money required for the contract, agreement or other obligation, or to pay the appropriation or expenditure, is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded; and the sum so certified shall not thereafter be considered unappropriated until the corporation is discharged from the contract, agreement or obligation, or so long as the ordinance, resolution or order is in force; and all contracts, agreements or other obligations, and all ordinances, resolutions and orders entered into or passed, contrary to the provisions of this section shall be void, and no party whatever shall have any claim or demand against the corporation thereunder; nor shall the council, or a board, officer, or commissioner of any municipal corporation, have any power to waive or qualify the limits fixed by such ordinance, resolution or order, or fasten upon the corporation any liability whatever for any excess of such limits, or release any party from an exact compliance with his contract under such ordinance, resolution or order; nor shall any member of the council, board, officer or commissioner of the corporation, have any interest in the expenditure of money on the part of the corporation other than his fixed compensation; and a violation of any provision of this section shall disqualify the party violating it from holding any office of trust or profit in the corporation, and render him liable to the corporation for all sums of money or other thing he may receive contrary to the provisions of this section, and if in office he shall be dismissed therefrom; provided, however, that the council of any city may authorize and the council of any village may make (subject to the provisions of sections 2491 and 3551 of the Revised Statutes of Ohio) a contract with any person, firm or company for lighting the streets, alleys, lands, lanes, squares and public places in the municipal corporation, or for furnishing water to such

Proviso.

corporation, or for the collection and disposal of garbage in said corporation, or for the leasing of the electric light plant and equipment, or the waterworks plant, or both, of any person, firm or company therein situated, for a period not exceeding ten years, and the requirement of a certificate that the necessary money is in the treasury shall not apply to such contract; provided further, that such requirement shall not apply to street improvement contracts extending for one year or more, nor to contracts made by the board of health of any municipality, nor to contracts made by any village for the employment of legal counsel.

TAX COMMISSION.

Board of tax commissioners and board of sinking fund trustees; appointment, qualifications, term, etc.

SECTION 46. In each city there shall be a board of tax commissioners, which shall also constitute the board of sinking fund trustees, as provided in section 108 of this act, to consist of four citizens of such city who shall be electors of said city, well known for their intelligence and integrity, to be appointed by the mayor, one for four years, one for three years, one for two years, and one for one year, and their successors shall be appointed for four years from the expiration of their respective terms. Such appointments shall be so distributed that not more than two members of said board shall belong to the same political party. In case of any vacancy by death, resignation, removal from the city or otherwise, of either of such commissioners, the same shall be filled by appointment by the mayor for the unexpired portion of such term.

No compensation.

SECTION 47. The members of said board of tax commissioners shall not receive any compensation for their services.

Oath.

SECTION 48. The members of said board of tax commissioners shall each take an oath to support the constitution of the United States and of the state of Ohio, and to faithfully and honestly perform their duties as such tax commissioners. Said board shall organize by appointing one of its members president, another vice-president; a majority of the members thereof shall constitute a quorum for the transaction of business. The board shall keep a full record of all its proceedings, and the city auditor shall be clerk of said board, and shall receive no additional salary or compensation for services as clerk of said board, and shall enter in a book to be provided by the city for that purpose a full and detailed statement of all its proceedings which shall be signed by the president or vice-president and said clerk.

Organization.

Record of proceedings.

Clerk.

Powers and duties of board of tax commissioners.

SECTION 49. The board of tax commissioners, upon receipt of the levies made by the council as provided by law, shall consider the same, and within ten days after such receipt shall return the same to the council with its

approval or rejection, in case of rejection giving its reasons therefor. It may approve or reject any part or parts thereof, and the parts rejected by said board shall not become valid levies unless the council of such municipality shall thereafter by a three-fourths vote of all members elected thereto adopt such levy or part thereof so rejected by said commission. If the board of tax commissioners approve said levies, or if it neglect to return the same with its approval or rejection within ten days as aforesaid, the same shall be valid and legal; provided, that in no case shall the board of tax commissioners have authority to increase said levy.

FIFTH. ASSESSMENTS.

Assessments which may be made special; method of assessment.

SECTION 50. The council of any municipal corporation may assess upon the abutting, adjacent and contiguous or other specially benefited lots or lands in the corporation, any part of the entire cost of and expense connected with the improvement of any street, alley or public road or place by paving, repaving, repairing, constructing sidewalks, sewers, drains or water courses and any part of the cost of lighting, sprinkling, sweeping, cleaning or planting shade trees upon the same, by either of the following methods:

First. By a percentage of the tax value of the property assessed.

Second. In proportion to the benefits which may result from the improvement, or

Third. By the foot frontage of the property bounding and abutting upon the improvement.

Resolution of necessity.

SECTION 51. Whenever it is deemed necessary by any city or village to make any public improvement to be paid for in whole or in part by special assessments, council shall declare by resolution (three-fourths of the whole number elected thereto concurring, except as otherwise provided herein), the necessity of such improvement, and thereupon prepare or cause to be prepared plans, specifications, estimates and profiles of the proposed improvement, showing the grade of the same with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be filed in the office of the department of public service in cities and in the office of the clerk in villages, and shall be open to the inspection of all persons interested. Not earlier than two weeks after the passage of said resolution, and before any such improvement is begun, council shall by ordinance, (three-fourths of the whole number elected thereto concurring), determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the

Plans, specifications, estimates and profiles to be prepared and filed in office of department of public service.

Ordinance; what to contain.

curbs, and approve the plans, specifications, estimates and profiles for the proposed improvement. Council shall also determine in said ordinance the method of the assessment, the mode of payment therefor and shall declare whether or not bonds shall be issued in anticipation of the collection of the same. Assessments for any improvement may be payable in one to ten installments and at such times as council may prescribe, and when bonds are issued in anticipation of the collection of assessments the interest thereon shall be treated as part of the cost of the improvement for which assessments may be made. If said assessments or any installments thereof shall not be paid when due, they shall bear interest until the payment thereof, at the same rate as the bonds issued in anticipation of the collection of the same, and the county auditor shall annually place upon the tax duplicate the penalty and interest herein provided for. Said resolution and ordinance shall be published as required in section 124 of this act.

Assessments may be paid in installments.

Publication of resolution and ordinance.

Notice; how served.

SECTION 52. A notice of the passage of the ordinance required in the last preceding section shall be served by the clerk of council or an assistant upon the owner of each piece of property to be assessed or upon the persons in whose names the same may be assessed for taxation on the tax duplicate, in the manner provided by law for the service of summons in civil actions; provided, that if any of said owners or persons be not residents of the corporation, then a notice of the passage of said ordinance shall be published at least twice in some newspaper of general circulation within the corporation, and such notice whether by service or publication shall be completed at least twenty days before the improvement is made or the assessment levied, and the return of the officer or person serving such notice, or a certified copy of said return shall be prima facie evidence of the service of the notice as therein stated.

Limitation of assessments.

SECTION 53. In all cases of assessments, the council shall limit the same to the special benefits conferred upon the property assessed, and in no case shall there be levied upon any lot or parcel of land in the corporation any assessment or assessments for any or all purposes, within a period of five years, exceeding thirty-three per cent. of the tax value thereof; provided, that the assessments levied for the construction of main sewers shall not exceed the sum that would in the opinion of council be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage or which are provided therewith. In all municipalities the corporation shall pay such part of the cost and expense of improvements for which special assessments are levied as council may deem just, which part shall not be less

Municipality to pay portion of cost of improvement.

than one-fiftieth of all such cost and expenses; and in addition thereto, the corporation shall pay the cost of intersections; provided, that whenever special assessment have been levied and paid, for the improvement of any street or other public place the property so assessed shall not again be assessed for more than one-half the cost and expense of repaving or repairing such street or other public place unless the grade of the same is changed; provided, that any city or village is hereby authorized to issue and sell its bonds as other bonds are sold to pay the corporation's part of any improvement as aforesaid, and may levy taxes in addition to all other taxes authorized by law to pay such bonds and the interest thereon.

As to intersections.

Limitation as to reassessment.

Municipality may issue bonds to pay its share of cost.

SECTION 54. An owner of a lot, or of land, bounding or abutting upon a proposed improvement, claiming that he will sustain damages by reason of the improvement, shall, within two weeks after the service, or the completion of the publication of the notice mentioned in the last section, file a claim in writing with the clerk of the council, setting forth the amount of the damages claimed, together with a general description of the property with respect to which it is claimed the injury will accrue; an owner who fails to do so, shall be deemed to have waived the same, and shall be barred from filing a claim or receiving damages; and this provision shall apply to all damages which will obviously result from the improvement, but shall not deprive the owner of his right to recover other damages arising, without his fault, from the acts of the corporation, or its agents; provided, that if subsequent to the filing of such claim, the owner sells the property, or any part thereof, the assignee shall have the same right to damages which the owner would have had without the transfer.

Claims for damages to be filed with clerk of council.

Effect of failure to so do.

SECTION 55. At the expiration of the time limited for filing claims for damages, as provided for in the last section, the council shall determine whether it will proceed with the proposed improvement or not, and whether the claims for damages filed as aforesaid shall be judicially inquired into, as hereinafter provided, before commencing, or after the completion of the proposed improvement; and if it decides to proceed therewith, an ordinance for the purpose shall be passed; said ordinance shall set forth specifically the lots and lands to be assessed for the improvement; shall contain a statement of the general nature of the improvement and the character of the materials thereof; of the mode of payment therefor; a reference to the ordinance theretofore passed for said improvement, giving the date of its passage and a statement of the intention of council to proceed therewith in accordance with said ordinance and in accordance with the plans, specifications, estimates and profiles provided for said improvement. In setting forth specifically

Determination of council as to claims for damages.

the lots and lands to be assessed for the improvement it shall be sufficient to describe the same in said ordinance by metes and bounds, or by their appropriate numbers and where provision as to damages is not made in this chapter, the provisions regulating the appropriation of property shall apply to the proceedings so far as they are applicable.

Assessment of damages.

SECTION 56. When claims for damages are filed within the time limited, and the council, having passed an ordinance for making the improvement, determines that the damages shall be assessed before commencing it, the mayor or solicitor shall make a written application for a jury, to the court of common pleas, or a judge thereof in vacation, or to the probate court of the county in which the corporation, or the larger part of it, is situated; and the court or judge shall direct the summoning of a jury, in the manner provided for the appropriation of property, and fix the time and place for the inquiry, and the assessment of such damages, which inquiry and assessment shall be confined to the claims as aforesaid.

Prosecution of error.

SECTION 57. The provisions of section 21 of this act shall apply to the municipal corporation, or the owners of any property who may desire to prosecute error as in other cases.

Costs of inquiry.

SECTION 58. In cases where the jury finds no damages, the costs of the inquiry shall be taxed against the claimant, and collected on execution, and in all other cases the costs shall be paid by the corporation.

How contract to be let.

SECTION 59. The contract for any such improvement shall be let under the provisions of sections 143 and 144 of this act, and in case all bids be rejected the directors of public service in cities and the council in villages may order a readvertisement for bids.

How lots and lands to be described.

SECTION 60. In all proceedings under this chapter, it shall be sufficient in designating the lots and lands to be charged with a special assessment, to describe the lots by their appropriate lot numbers, and the land by metes and bounds, or by the description thereof on the tax duplicate of the city or village.

When council authorized to proceed with improvement without concurrence of three-fourths of council.

SECTION 61. No public improvement, the cost or part of cost of which is to be specially assessed on the owners of property, shall be made without the concurrence of three-fourths of the whole number of the members elected to council, unless the owners of a majority of the foot frontage to be assessed, petition in writing therefor, in which event the council shall be authorized (a majority of the whole number elected thereto concurring), to proceed with the improvement in the manner herein provided.

Improvement on petition of owners of abutting property.

SECTION 62. In cities or villages when a petition subscribed by three-fourths in interest of the owners of property abutting upon any street or highway of any description between designated points, is regularly presented to the council for the purpose, the entire cost of any improvement of such street or highway, without reference to the value of the lands of those who subscribed said petition, may be assessed and collected in equal annual installments, proportioned to the whole assessment, in a manner to be indicated in the petition or if not so indicated, then in the manner which may be fixed by the council; and the interest on any bonds issued by the corporation, together with the annual installments herein provided for, and the costs of such proceedings and assessments shall be assessed upon the property so improved; but when the lot or land of one who did not subscribe the petition is assessed, such assessment shall not exceed thirty-three per cent. of the tax value of his lot or land; provided, that the guardian of infants or insane persons may sign such petition on behalf of their wards only when expressly authorized by the probate court on good cause shown.

Assessment on property of the corporation.

SECTION 63. When the whole or any portion of an improvement authorized by this title passes by or through a public wharf, market space, park, cemetery, structure for the fire department, waterworks, school building, infirmary, market building, workhouse, hospital, house of refuge, gas works, public prison, or any other public structure or public grounds within and belonging to the corporation, the council may authorize the proper proportion of the estimated costs and expenses of the improvement to be certified by the clerk of the corporation to the county auditor and entered upon the tax list of all taxable real and personal property in the corporation, and the same shall be collected as other taxes.

Expense of changing established grades; how paid.

SECTION 64. When a street, alley, public highway, wharf, or landing within the corporation is graded or pavements are constructed in conformity to grades established by the authorities of the corporation, and the expense is assessed on the lots or lands benefited thereby, the owners shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, sidewalk, street, alley, public highway, wharf or landing, unless a petition for such change is subscribed by a majority of the owners of such lot or lands; and the expense of all improvements occasioned by such change of grade, not so petitioned for, shall be chargeable to the general fund of the corporation.

Keeping street in repair, planting shade trees, sprinkling, sweeping, etc.; petition filed and recorded by clerk of council.

SECTION 65. On the written petition of the owners of more than two-thirds of the foot frontage on any street, or part thereof, the council of any city or village, may provide by ordinance for keeping in repair, planting and

taking care of shade trees, sprinkling with water, and sweeping and cleaning any streets or part thereof, which have been improved under any of the provisions of this chapter, and removing noxious weeds from vacant lots; and one or more of such objects may be embraced in one petition or ordinance, and may also be included in the petition and ordinance for the improvement of such street or part thereof; said petition shall be filed and recorded by the clerk of the council and shall be operative from and after the date of its record, and the record shall be presumptive evidence of its contents and the signature thereto.

Who shall constitute board for such purposes.

SECTION 66. In cities, directors of public service and in villages the street commissioner, shall supervise and direct the keeping in repair of such street or alley, or part thereof, planting and taking care of shade trees, and taking care of and sprinkling with water; and sweeping and cleaning such streets, and the council of each city may, by ordinance, appoint two citizens of the city, owners of abutting property on each street, to serve with such officer or under his direction, and without compensation, in the performance and exercise of said powers and in the performance of said duties. The force and operation of said petition authorized by the preceding section, shall cease seven years from the date of its record, but it may be renewed at any time by another like petition, which, when filed and recorded, shall have the same force and effect as the first one.

Power to contract.

SECTION 67. The board consisting of the directors of public service or street commissioner, as the case may be, and the two citizens aforesaid, in carrying out the purposes of such ordinances, may make such contracts as it shall deem best, but no contract shall be made for a longer period than one year.

Appointment of board to report estimate of assessments.

SECTION 68. In cases wherein it is determined to assess the whole or any part of the cost of any improvement in proportion to the benefits which may result from such improvement, as provided for herein, the council may appoint three disinterested freeholders of the corporation to report to it the estimated assessment of such cost on the lots and lands to be charged therewith, in proportion as nearly as may be, to the benefits which may result from the improvement to the several lots or parcels of land so assessed, a copy of which assessment shall be filed in the office of the clerk of the corporation for public inspection.

Equalization of assessments.

SECTION 69. On a day appointed by the council for that purpose, the board, mentioned in section 2279 of the Revised Statutes of Ohio, after taking an oath before the proper officers, to honestly and impartially discharge their duties, shall hear and determine all objections to the

assessment, and shall equalize the same, as they think proper, which equalized assessment they shall report to the council, which shall have the power to confirm the same, or set it aside, and cause a new assessment to be made and appoint a new equalizing board possessing the same qualifications, which shall proceed in the manner above provided. When the assessment is confirmed by the council, it shall be complete and final, and shall be recorded in the office of the clerk of council.

Council to provide for construction and repair of sidewalks, etc.

SECTION 70. The council of cities and villages may provide by ordinance for the construction and repair of all necessary sidewalks, or parts thereof, within the limits of the corporation, and may require by the imposition of suitable penalties or otherwise, the owners and occupants of abutting lots and lands to keep the sidewalks in repair, free from snow or any nuisance.

Notice to owners of abutting property to construct or repair sidewalks.

SECTION 71. When the council of cities or villages declares by resolution that certain specified sidewalks shall be constructed or repaired, the clerk of council shall cause a written notice of the passage of such resolution to be served upon the owner or agent of the owner of each parcel of land abutting on such sidewalk, who may be a resident of such city or village, in the manner provided by law for the service of summons in a civil action, and shall return a copy of such notice with the time and manner of service indorsed thereon, signed by the officer serving the same, to the department of public service in cities, and to council in villages which shall file and preserve the same; and for the purpose of such service, if the owner is not a resident of the city or village, any person charged with the collection of rents or the payment of taxes on such property or having general control thereof in any way, shall be regarded as the agent of the owner; and such return shall have the like force and effect as the sheriff's return on summons in a civil action.

Return of copy of notice.

Service upon agent or owner.

Notice to non-residents and persons not found.

SECTION 72. If it appear in the return in any case of the notice provided for in the preceding section, that such owner is a non-resident, or that neither any such owner nor agent nor their place of residence could be found, then a notice given by publication of a copy of the resolution in some newspaper of general circulation in the corporation, in the manner heretofore provided for the publication of resolutions for street improvements shall be deemed sufficient notice to such owner, not so found, but such publication shall not be necessary in the case of construction or repair of sidewalks where such notice is served upon the owner or agent as herein provided.

On failure of owner to construct or repair, same to be done at his expense.

SECTION 73. If such sidewalks are not constructed within thirty days, or not repaired within ten days from the

service of the notice, or completion of the publication, the department of public service in cities and council in villages may have the same done at the expense of the owner, and such expense shall be assessed on all the property bounding or abutting thereon, and shall be collected in the same manner, with a penalty of five per centum and interest after failure to pay at the time fixed by the assessing ordinance as in other cases of improvements.

Notice to owners of abutting property to clean sidewalks.

SECTION 74. When the council declares by resolution that a certain specified sidewalk shall be cleaned so as to be free from weeds, grass, dirt or any other objectionable substance, it shall then be the duty of the clerk of council to cause notice of the passage of such resolution to be served upon the owners of each parcel of land abutting on such sidewalk ordered cleaned. Such notice shall be given in the same manner as is provided for service of notice to construct sidewalks. If said sidewalks are not cleaned within five days after the service of the notice or completion of the publication, the department of public service in cities and the street commissioner in villages shall have the same done at the expense of the owner, and report the cost thereof to him and to council. The cost of such cleaning shall constitute a lien upon the property abutting on such sidewalk from the date the same is so reported, and shall be paid by the owner to the treasurer of the municipality. If the cost of said cleaning is not paid within ten days from the time the same has been so reported, the said clerk in villages and the department of public service in cities, shall certify the same, together with a penalty of five per centum thereon, to the county auditor, who shall place the same on the tax duplicate and collect such costs and penalties in the same manner as other taxes are collected.

On failure of owners to clean such sidewalks, same to be done at their expense.

Construction of sidewalks, curbing or gutters.

SECTION 75. In cities and villages, whenever sidewalks, curbing or gutters are to be constructed pursuant to a resolution of council, the department of public service in cities and council in villages, may construct such sidewalk or parts thereof, or curbing or gutters or parts thereof, and assess the cost and expense thereof upon the abutting, adjacent and contiguous or other specially benefited property according to the rule heretofore provided for street improvements; and to carry out such purpose, council is hereby authorized to issue bonds of such city or village, in denominations not to exceed one thousand dollars, each to be payable in not less than one nor more than ten years, and to bear interest at a rate not to exceed six per centum per annum, which bonds shall not be sold for less than their par value and the proceeds arising from such sales shall be applied to the cost of such improvements, the cost of issuing such bonds, the payment of interest thereon, and to no other

Bond issue authorized.

purpose. The assessments shall be in such amounts as will be sufficient to provide for the payment of such bonds and the interest due thereon as the same mature, and such assessments shall be certified to the auditor of the county in which such city or village is situated, to be placed upon the duplicate, and shall be a lien upon all property so assessed if such assessment is not paid within the time fixed in the assessing ordinance.

Construction of sidewalks along property of the corporation.

SECTION 76. In all cases where it is deemed necessary by a municipal corporation to build or repair sidewalks along that portion of any street, alley or public highway which passes by or through any public wharves, market spaces, parks, cemeteries, public grounds or buildings, the proper proportion of the estimated expense thereof shall be by the council of such corporation, levied, certified and collected in the manner provided herein for the assessment of street improvements.

City engineer to devise plan of sewerage.

SECTION 77. In addition to the power herein conferred to construct sewers and levy assessments therefor, council of a city or village may provide a system of sewerage for such municipal corporation or any part thereof; it shall be the duty of the engineer of such city or village, or some person employed by the municipality, to devise and form, or cause to be devised and formed, a plan of the sewerage of the whole city or village, or such part thereof as may be designated by the council; and such plans shall be devised with regard to the present and prospective needs and interests of the whole city or village; which plans shall be by him reported to the council for its confirmation.

Sewer districts.

SECTION 78. The plan so devised shall be formed with a view of the division of the corporation into as many sewer districts as may be deemed necessary for securing efficient sewerage. Each of the districts shall be designated by a name and number, and shall consist of one or more main sewers, with the necessary branch or connecting sewers; the main sewers having their outlet in a river, or other proper place. The districts shall be so arranged as to be independent of each other, so far as practicable.

How plan to be prepared.

SECTION 79. The plan shall be so prepared as to show the size, location, inclination and depth below the surface of all main sewers and all branch sewers connected therewith.

Notice of completion of plans to be advertised.

SECTION 80. When such plan of sewerage has been prepared, the council shall give at least ten days' notice in one newspaper of general circulation in the corporation, stating that such plans have been prepared and are filed in the office of the clerk for examination and inspection by parties interested.

Objections to plans.

SECTION 81. Any objection to said plan of sewerage shall then be made to the council, and it may, if it deem proper, amend or correct the same, and shall thereupon file the plans as amended, or if no amendments be made, then the original plans, duly certified by it in the office of the auditor or clerk.

Amendment of plans, etc.

SECTION 82. Council shall have the right at any time after the construction of all or a part of the sewers provided for by such plan of sewerage to amend such plans, by providing for such intercepting sewers, without regard to sewer districts, as shall be necessary to furnish an additional outlet for the system so adopted, and to provide for the construction of the same as is provided in this subdivision, and apportion the cost and expense thereof, equally among the districts directly or indirectly sewered in whole or in part thereby, and assess and collect the amount apportioned to each district as provided in this subdivision; or the council may apportion a part only of such cost and expense among the districts directly or indirectly sewered in whole or in part thereby, and provide for the payment of the residue thereof by the city at large. The council may also amend such plans by making new sewer districts, or by subdividing districts already established, giving a name and number thereto, and provide for the construction of the main and branch sewers therein, and may assess the cost and expense thereof upon the lots and lands within the corporation according to benefits.

Engineer to estimate costs, etc.

SECTION 83. After such plans have been adopted and approved, as heretofore provided, the council shall designate such portions of the work as may be required for immediate use, and the designation shall be by districts, and shall show what districts or part thereof, is to be improved; and the council may order the engineer to make an estimate of the cost and expense of constructing the work, or such portions thereof as may have been designated in accordance with the last section, according to such plans, and report the same to council.

Resolution of necessity and notice thereof.

SECTION 84. When it is deemed necessary by a city or village to construct all or a part of the sewers provided for in said plan, the council shall declare by resolution the necessity of such improvement. Said resolution shall contain a declaration of the necessity of said improvement, a statement of the district or districts or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where the same are on file, and the mode of payment therefor, and the council shall cause the resolution to be published once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the corporation.

Ordinance authorizing construction; what to contain.

SECTION 85. After the publication of said notice, the council shall determine whether it shall proceed with the proposed improvement or not, and if it decides to proceed therewith, an ordinance for the purpose shall be passed. Said ordinance shall contain a statement of the district or districts or parts thereof proposed to be constructed, the character of the material to be used, a reference to the plans and specifications, the mode of payment therefor, and said ordinance shall provide for assessing the cost and expenses of the improvement upon the lots and lands in each district as other assessments are levied, and the lots and lands in each district shall be assessed by districts, except that the cost of the construction of any main sewer which serves as a common outlet for two or more districts shall be apportioned between the districts, and the cost assessed on the lots and lands in the respective districts in proportion to the benefits accruing thereto.

How contract let.

SECTION 86. The work shall be advertised, and the contract shall be awarded to the lowest and best bidder, in the manner heretofore provided for the improvement of streets.

Ordinance for assessment of costs.

SECTION 87. Upon the certificate of the engineer showing the completion of the work, the council shall by ordinance assess the real estate as provided in the ordinance to improve. Any person so assessed shall have the option of paying his portion of such assessment in full within a period of thirty days from the date of the levy thereof, upon due notice being given.

Council may provide for construction of sewers without adopting any plan of sewerage or dividing city into districts.

SECTION 88. The council may, if in its opinion expedient, provide for the construction of main drains and branch drains connecting therewith without previously adopting any plan of sewerage or division of the territory of the municipal corporation or any part thereof, into districts, and may assess the cost and expense thereof upon such lots or lands as shall be designated in the ordinance to improve, or the same may be paid out of the sewer fund, or by the municipal corporation at large, as council shall determine, and such proceedings shall be had in respect to such improvements and assessments as are provided for in this subdivision for the construction of main or branch sewers according to a previously adopted plan.

Councils of two or more municipalities authorized to construct joint sewers; procedure.

SECTION 89. The respective councils of any two or more municipal corporations shall have power to provide for the construction of a main sewer and branches jointly by such corporations for the purpose of sewering and draining such corporations or any part thereof, and to agree upon the plan and location of such main sewer, and the terms and conditions on which the same shall be constructed and maintained for common use, and the portion of the cost and expense thereof to be paid by

each corporation. For this purpose said corporations may jointly appropriate land either within or without their respective corporations. The council of each corporation shall provide for assessing such portion of the cost and expenses of constructing any such main sewer or drain as it shall determine to be a proper charge upon the lots and lands within such respective corporations benefited thereby, and the excess over the assessment herein authorized shall be paid out of the sewer fund of the corporations respectively; or if the corporations or either of them are divided into sewer districts, out of the sewer fund of the district or districts directly or indirectly sewered in whole or in part thereby; and in case more than one district is so sewered thereby, the council shall apportion the amount to be paid by each district or assessed against the property therein, or the said councils, or either, may determine to place the whole cost, or any part thereof, upon the general duplicate; and bonds may be issued by either or both of said corporations to provide for the payment of the cost and expense thereof as is provided in this subdivision, and the proceedings for the construction of such main sewer or drain, shall, so far as applicable, be conducted according to the provisions of this subdivision. The advertisement for bids for the construction thereof shall be joint, and shall be filed with the clerk of council, and the same shall be reported to the council of each corporation. Any contract made for the construction of such sewer shall be in the names of such corporations jointly, but each corporation shall be liable only for such portion of the cost and expense as shall be specified in the ordinances providing for the same.

Joint management of such system.

SECTION 90. Said main sewer or drain, branches and appurtenances, on completion, shall be the property of said corporations jointly, and said corporations may take all necessary steps to keep the same in proper repair and condition and to protect the same from damage and improper use. Said corporations shall have the power by ordinance jointly passed, to prescribe the terms and conditions, including the price to be paid therefor, upon which other municipal corporations, public institutions or individuals, may connect with and use such main sewer or drain, and the disposition of the fund arising therefrom.

Council may borrow money for construction of sewers.

SECTION 91. The council of any city or village shall have power to borrow money, at a rate of interest not exceeding six per centum per annum, to pay the cost and expense of constructing the main sewers, main drains, branches and ditches provided for in this subdivision.

Council may provide for construction and maintenance of sewer pumping stations, etc.

SECTION 92. The councils of cities and villages, in accordance with the provisions of this title, may provide for the construction and maintenance of such sewer

pumping stations, and equip the same with the necessary machinery and apparatus and provide the necessary buildings therefor, as the council shall deem necessary.

Sewage farm.

SECTION 93. Power and authority is hereby granted to any city or village to purchase and hold land outside of the corporate limits, to be used as a sewage farm, to construct and maintain thereon all the necessary appliances for the proper disposition of the sewage of such city or village, under such rules and regulations as shall be prescribed by council and approved by the state board of health.

All assessments subject to certain sections of Revised Statutes.

SECTION 94. All assessments provided for in this act shall be subject to the provisions of sections 2268, 2278, 2279, 2282, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2294, 2295, 2297, 2298, 2299, 2300, 2302, 2318, 2321, 2326, 2327 and 2332 of the Revised Statutes of Ohio, so far as the same may be applicable, and such sections shall be and remain in full force and effect. Whenever any special assessment is made as herein provided, and the same has been confirmed by council and bonds, notes, or certificates of indebtedness of the corporation are issued in anticipation of the collection thereof, it shall be the duty of the clerk of the council, on or before the second Monday in September, annually, to certify such assessment to the county auditor, stating the amounts and the time of payment, and in accordance therewith the county auditor shall place the same upon the tax list, and the county treasurer shall collect the assessment in the same manner as other taxes are collected, and when collected he shall pay the same to the treasurer of the corporation to be by him applied to the payment of such bonds, notes, or certificates of indebtedness and interest thereon, and for no other purpose; and for the purpose of enforcing the collection of the assessment the county treasurer shall have the same power and authority now allowed by law for the collection of state and county taxes. In all other cases, such assessment shall be paid to and collected by the treasurer of the municipality, and in any event it shall be the duty of the clerk of the council, when the receipt is presented to him by the owner, showing the payment of any assessment on his property to enter such receipt on the margin of the record of the assessment.

When special assessments to be certified to county auditor.

How collected.

When such assessment to be collected by municipal treasurer.

SIXTH. POWER TO BORROW MONEY.

Power of municipality to borrow money and issue certificates of indebtedness therefor, in anticipation of general revenue fund; limitation.

SECTION 95. All municipal corporations shall have power to borrow money and issue certificates of indebtedness therefor, signed as municipal bonds are signed, in anticipation of the general revenue fund in any fiscal year, but no loans shall be made exceeding the amount of taxes and revenues estimated to be received at the next semiannual settlement of tax collections for said

fund, after deducting all advances. The sums so anticipated shall be deemed as appropriated for the payment of the certificates at maturity. Such certificates of indebtedness shall not run for a longer period than six months, nor bear a greater rate of interest than six per cent., nor be sold for less than par with accrued interest.

Power of municipal corporation to issue bonds in anticipation of special assessments.

Municipal corporations shall likewise have power to issue bonds in anticipation of special assessments, and such bonds may be in sufficient amount to pay the estimated cost and expense of the improvement for which such special assessments are levied, and in the issuance and sale of such bonds the municipality shall be governed by all the restrictions and limitations with respect to the issuance and sale of other bonds, and the assessments as paid shall be applied to the liquidation of said bonds.

Power of municipalities to issue refunding bonds.

SECTION 96. Municipal corporations shall have power to issue bonds in the manner and for the purposes authorized by section 2701, Revised Statutes of Ohio, and the form and requisites of all bonds shall be such as are required by sections 2703, 2706, 2707 and 2708 of the Revised Statutes of Ohio.

Municipal bonds first offered to trustees of sinking fund.

SECTION 97. Municipal bonds shall be sold in the manner herein provided. Whenever any municipal corporation issues its bonds, it shall first offer them at par and accrued interest to the trustees or commissioners, in their official capacity, of the sinking fund, or, in case there are no such trustees or commissioners, to the officer or officers of such corporation having charge of its debts, in their official capacity, and only after their refusal to take all or any of such bonds at par and interest, bona fide for and to be held for the benefit of such corporation, sinking fund or debt, shall such bonds, or as many of them as remain, be advertised for public sale.

Not to be sold for less than par value.

In no case shall the bonds of the corporation be sold for less than their par value; nor shall such bonds when so held for the benefit of such sinking fund or debt, be sold, except when necessary to meet the requirements of such fund or debt.

Sold to highest bidder after notice by publication.

All sales of bonds, other than to the sinking fund, by any municipal corporation, shall be to the highest and best bidder, after thirty days' notice in at least two newspapers of general circulation in the county where such municipal corporation is situated, setting forth the nature, amount, rate of interest and length of time the bonds have to run, with time and place of sale. Additional notice may be published outside of such county by order of the council; provided, however,

When may be sold at private sale.

when any such bonds have been once so advertised and offered for public sale, and the same or any part thereof, remain unsold, then said bonds, or as many as remain unsold, may be sold at private sale at not less than their par value, under the direction of the mayor and the officers and agents of the corporation by whom said

bonds have been, or shall be, prepared, advertised and offered at public sale; provided, further, that when it shall appear to the trustees or council of any municipal corporation, to be for the best interests of such corporation to renew or refund any bonded indebtedness of such corporation which shall not have matured, and thereby reduce the rate of interest thereon, such trustees or council shall have authority to issue for that purpose new bonds, with semiannual interest coupons attached, and to exchange the same with the holder or holders of such outstanding bonds, if such holder or holders shall consent to make such exchange and to such reduction of interest. Refunding of corporate indebtedness.

When new bonds are issued the same shall not in any case exceed in amount the outstanding bonded indebtedness to be renewed or refunded.

SECTION 98. Municipal corporations may, on demand of the owner or holder of any of its coupon bonds heretofore or hereafter issued, issue in lieu thereof registered bonds of the same denomination, bearing the same rate of interest, and payable both as to interest and principal, at the same time, and council may by ordinance, determine the conditions and the method of effecting such exchange. Registration of bonds.

SECTION 99. Council shall have power to issue deficiency bonds in such amount and denominations and for such periods of time, not exceeding fifty years and at such rate of interest not exceeding six per cent. as it shall deem best whenever, in the opinion of council, it is necessary to supply a deficiency in the revenues of the corporation; provided, that the total amount of such deficiency bonds issued by any corporation, outstanding at any time, shall not exceed one per cent. of the total value of all property in such corporation as listed and assessed for taxation; and provided further, that the issuance of such bonds shall be approved by the votes of two-thirds of all the members elected to council, and approved by the votes of two-thirds of all the electors of the corporation voting upon such question at a regular or special election to be provided for by council. Deficiency bonds; limitation. Submission of question to vote.

SECTION 100. All municipal corporations shall have power to issue bonds for the various purposes, to the amounts and with the limitations provided in the act passed April 29, 1902, entitled "An act to amend sections 2835, 2836 and 2837 and to repeal section 2837a of the Revised Statutes of Ohio, authorizing the issue of bonds by cities, villages, hamlets and townships," and such act shall be and remain in full force and effect; all premiums and accrued interest received by the corporation from a sale of its bonds shall be transferred to the trustees of the sinking fund to be by them applied on the bonded debt and interest account of the corporation; General provisions relative to bonds.

provided, that the premiums and accrued interest upon bonds issued for special assessments shall be applied by the trustees of the sinking fund to the payment of the principal and interest of those bonds and no others.

SEVENTH. SINKING FUND.

Tax for creating a sinking fund.

SECTION 101. All municipal corporations having outstanding bonds or funded debts shall, through their councils, and in addition to all other taxes authorized by law, levy and collect annually a tax upon all the real and personal property in the corporation sufficient to pay the interest and provide a sinking fund for the extinguishment of all bonds and funded debts and for the payment of all judgments final, except in condemnation of property cases, and the taxes so raised shall be used for no other purpose whatever.

Trustees of the sinking fund.

SECTION 102. In all municipal corporations the sinking fund shall be managed and controlled by a board designated as the trustees of the sinking fund, which in cities shall be composed of four citizens thereof, which shall also be the tax commission as provided herein, not more than two of whom shall belong to the same political party, and who shall be appointed by the mayor. In villages the trustees of the sinking fund shall be the mayor, clerk and chairman of the finance committee of council.

Compensation and bond.

SECTION 103. The trustees of the sinking fund shall serve without compensation and shall give such bond as council may require; provided, that any surety company authorized to sign such bonds shall be sufficient security, and the costs thereof, together with all other incidental and necessary expenses of the trustees of the sinking fund, shall be paid by said trustees out of funds under their control.

Organization of board.

SECTION 104. The trustees of the sinking fund shall immediately after their appointment and qualification elect one of their number as president and another as vice-president and such secretary, clerks or employes as council may provide by an ordinance which shall fix their duties, bonds and compensation; provided, that where no clerks or secretary is authorized, the auditor of the city or clerk of the village shall act as secretary of the board.

Meetings; record of proceedings.

SECTION 105. The trustees of the sinking fund shall make their own rules; but their meetings shall be open to the public, and all questions relating to the purchase or sale of securities, payment of bonds, interest or judgments or involving the payment or appropriation of money shall be decided by a yea and nay vote with the name of each member voting recorded on the journal,

and no question shall be decided unless approved by a majority of the whole board.

Duty of trustees with respect to bonded indebtedness of city.

SECTION 106. The auditor of the city or clerk of the village shall upon demand of the board report to it a full and detailed statement of the outstanding indebtedness of the corporation for bonds issued, and the board shall take charge of and keep a full record of the same and report to council at least once a year a full detailed statement of the same, together with the statement of their investments and general financial business of the city or village which shall be published in any annual report published by the corporation.

Auditor's or clerk's report to trustees.

SECTION 107. The city auditor or village clerk shall upon demand of the board, report to it balances belonging to the city or village, to the credit of the sinking fund, interest accounts, or for any bonds issued for or by the corporation; and all officers or persons having the same shall immediately pay the same over to the trustees of the sinking fund, who shall deposit them in such place or places as the majority of such board shall select.

Report of trustees to council.

SECTION 108. On or before the first Monday in May of each year the trustees of the sinking fund shall certify to council the rate of tax necessary to provide a sinking fund for the future payment of bonds issued by the corporation and for the payment of final judgments, except in condemnation of property cases, and for the amount necessary for the payment of interest on all bonded indebtedness, and the rents due on all perpetual leaseholds of the corporation not payable from a special fund, and the expenses incident to the management of the sinking fund, and council shall place the several amounts so certified in the tax ordinance before and in preference to any other item and for the full amount certified, and said taxes shall be in addition to all other taxes authorized by law.

Duty of council.

How funds to be invested.

SECTION 109. The trustees of the sinking fund shall invest all moneys received by them in bonds of the United States, the state of Ohio, or of any municipal corporation, school, township or county bonds, in said state, hold in reserve only such sums as may be needed for effecting the terms of this act, and all interest received by them shall be reinvested in like manner.

Payment of obligations.

SECTION 110. For the satisfaction of any obligations under their supervision the trustees of the sinking fund may sell or use any of the securities or money in their possession.

How money to be drawn and deposited.

SECTION 111. Money shall be drawn by check only, signed by the president, and at least two members of the board, and attested by the secretary or clerk. All se-

curities or evidences of debt held by the trustees for the corporation shall be deposited with the treasurer of the corporation or with a safety deposit company or companies within the corporation, or if none exists, then in a place of safety to be indicated or furnished by council, and when so deposited they shall be drawn only upon the application of three members and in the presence of at least two members of the city board, or upon the application and in the presence of at least two members of the village board.

Trustees to collect rents, etc., due city; power to make investigations, etc.

SECTION 112. The trustees of the sinking fund shall collect all rents due to the corporation and invest the same as other funds; they shall have power to investigate all transactions involving or affecting the sinking fund in any branch or department of the municipal government, and shall have such other powers and perform such other duties as may be conferred or required by council.

Trustees authorized to issue bonds for certain purposes.

SECTION 113. The trustees of the sinking fund for the purpose of refunding renewing or extending the bonded debt at a lower rate of interest or for buying the fee simple of real estate held by the corporation under special leases wherein is secured to the corporation the option to buy the fee simple at a fixed price, and where the money to buy can be procured at a less rate of interest on the price than is represented by the stipulated rents, shall have power to issue the coupon or registered bonds of the corporation for such periods not exceeding fifty years, in such denominations, payable at such place and at such rate of interest not exceeding six per cent., as the trustees may determine; provided, that the aggregate amount of refunding, renewing or extending bonds so issued shall not exceed that of the bonds so refunded, renewed or extended.

Registration of bonds.

SECTION 114. In all cities all bonds issued by the city shall, before the said bonds become valid in the hands of any purchaser, be registered in the office of the sinking fund trustees, and shall bear the stamp of said board of sinking fund trustees, containing the words "registered in office of the sinking fund trustees," signed by the clerk. The register shall show date of issue, for what purpose issued, rate of interest, amount of issue, when due, interest where payable.

Signing, attesting, etc.

SECTION 115. All bonds issued by the trustees of the sinking fund shall be signed by the mayor and president of such board of trustees, except that when the mayor of a village is also the president of such board of trustees he shall sign as such mayor and president of the board; attested by the auditor or clerk of the corporation and the secretary of the board of trustees of the sinking fund and have affixed the seal of the corporation issuing them; they shall be sold as provided in section

97 of this act and the trustees of the sinking fund shall have power on demand of the owner or holder of any coupon bond, to issue in lieu thereof a registered bond of the same denomination, bearing the same rate of interest and payable both interest and principal at the same time, and to provide the method of effecting such exchange.

III.

ORGANIZATION OF CITIES.

1. LEGISLATIVE.

Council: number of members; how elected; term.

SECTION 116. The legislative power of every city shall be vested in, and exercised by, a council, composed of not less than seven members, four of whom shall be elected by wards and three of whom shall be elected by the electors of the city at large; provided, that for the first twenty thousand inhabitants in any city, in addition to the original five thousand, there shall be two additional members of council, elected by wards, and for every fifteen thousand inhabitants thereafter there shall be one additional member similarly elected. Provided, further, that whenever the total number of members of council is fifteen or more, one member of every five shall be elected at large, and the remainder from wards. Members of council shall serve for a term of two years and until their successors are elected and qualified.

Council to divide city into wards.

SECTION 117. Not later than the first day of January next after the passage of this act, the present council, board of legislation, or other legislative body, in each municipal corporation classified as a city in this act, shall subdivide said city into wards, equal in number to the members of council in said city who are to be elected from wards therein, and all wards so established shall be bounded, as far as practicable, by county lines, streets, alleys, avenues, public grounds, canals, water courses, corporation lines, center lines of platted streets, or railroads, and be composed of adjacent and compact territory; and the several wards at the time of such subdivision shall contain as nearly as practicable an equal number of inhabitants. Council shall, in like manner, after each recurring federal census, and within three months after the issuance of the proclamation required in section 2 of this act, redistrict said city; provided that said city shall also be redistricted whenever there is annexed thereto any territory containing, by the last federal census, such number of inhabitants as will entitle the city to an additional member or members of council.

In certain cases such division to be made by judges of common pleas court.

Provided, however, that if the present council, board of legislation, or other legislative body, shall fail to redistrict such city as herein required, on or before the

first day of January, next, after the passage of this act, then and in that event on the application of the mayor of such city the judges of the court of common pleas of the subdivision of the judicial district in which such city is situate shall, subject to the requirements herein, forthwith redistrict such city; and provided, further, that if at any time after each recurring federal census or when territory is annexed to such city, the council of any city shall fail to redistrict such city as provided herein, then and in that event on the application of the president of such council the directors of public service of such city shall in accordance with the provisions hereof redistrict such city. The action of the judges of the court of common pleas or the directors of public service shall have the same force and effect as if such redistricting had been made by ordinance or resolution of council.

Council to determine number of members of board of public safety and board of public service.

The present council, board of legislation or other legislative body in each city shall, not later than the first day of January, 1903, determine by resolution or ordinance the number of directors of public safety and public service, respectively, for the city, and when such number shall have been so determined the number shall not thereafter be increased nor diminished to take effect during the term of any director who at the time such change is determined upon shall be serving as such director.

Council; how members of, elected.

At the first election held under this act, the members of council shall be elected at large, and from the wards herein required to be established, and at all subsequent elections the members of council shall be elected at large and from the wards then existing; and the wards established at any time under the authority of this act shall exist for all local election and other purposes, for which wards are recognized by law, including the election of members of the board of education in cities in which such members are elected by wards. Provided, that wards shall be numbered from one upward, consecutively, and that at the first election under this act the members elected to council from wards of odd numbers, beginning with ward number one, shall be elected for one year, and those elected from wards of even numbers shall be elected for two years, and that at the expiration of their respective terms, their successors shall be elected for a term of two years; and provided, further, that at said first election councilmen at large shall be elected for terms as follows: If there be but one councilman at large he shall be elected for two years, and if there be more than one and the number thereof be exactly divisible by two, then one-half such number shall be elected for two years, and one-half for one year, but if the whole number be not exactly divisible by two, then the number to be elected for one year, shall be the quotient, obtained by dividing the whole number to be elected at large, less one, by two, and the remainder shall be elected for two years; and at the expiration of their respective terms

their successors shall be elected for two years. The present council, board of legislation or other legislative body shall likewise fix the salaries and bonds of all officers to be elected at the first election held under the authority of this act, as well as the salaries and bonds of the solicitor and members of the board of public safety to be first appointed hereunder; provided, that the salaries of members of council shall be limited as required in section 126 hereof, and provided further that the salaries so fixed shall not be increased or diminished during the term for which any such officer may be elected or appointed.

Council to fix salaries and bonds of municipal officers.

SECTION 118. The members of council shall, within ten days from the commencement of their term, elect a president pro tem., clerk, who shall also perform the duties of city clerk unless otherwise specified in this act, and such other employes of council as may be necessary, and shall fix their duties, bonds and compensation. The officers and employes of council shall serve for two years, but may be removed at any time for cause, at a regular meeting by a vote of two-thirds of the members elected to council,

Officers of council.

SECTION 119. Council shall be the judge of the election and qualification of its members; a majority of all the members elected shall be a quorum to do business, but a less number may adjourn from day to day and compel the attendance of absent members, in such manner and under such penalties as shall be prescribed by ordinance.

Council shall be judge of election and qualifications of its members; quorum.

SECTION 120. Councilmen at large shall have resided in their respective cities, and councilmen from wards shall have resided in their respective wards, for at least one year next preceding their election. Every member of council shall be an elector of the city, shall not hold any other public office or employment, except that of notary public or member of the state militia, and shall not be interested in any contract with the city. Any member who shall cease to possess any of the qualifications herein required, or shall remove from his ward, if elected from his ward, or from the city, if elected from the city at large, shall forthwith forfeit his office. Whenever the office of councilman becomes vacant the same shall be filled by election by council for the unexpired term, and in case council fail within thirty days to fill such vacancy, the mayor shall fill the same by appointment.

Qualifications of members of council.

Vacancies.

SECTION 121. Council shall determine its own rules and keep a journal of its proceedings. It may punish or expel any member for disorderly conduct, or violation of its rules, and declare his seat vacant for absence without valid excuse, where such absence has continued for two months; but no expulsion shall take place without the concurrence of two-thirds of all the members elected,

Rules, journal, expulsion of members.

and until the delinquent member shall have been notified of the charge or charges against him, and shall have had an opportunity to be heard.

Ordinances and resolutions; how adopted.

SECTION 122. The action of council shall be by ordinance or resolution, and on the passage of every ordinance or resolution the vote shall be taken by "yeas" and "nays," and entered upon the journal; provided, however, that this shall not apply to the ordering of an election, or direction by council to any board or officer to furnish council with information as to the affairs of any department or office. No ordinance or resolution granting a franchise, or creating a right, or involving the expenditure of money, or the levying of any tax, or for the purchase, lease, sale, or transfer of property, shall be passed, unless the same shall have been read on three different days, and with respect to any such ordinance or resolution, there shall be no authority to dispense with this rule, except by a three-fourths vote of all members elected thereto. No ordinance shall be passed by council without the concurrence of a majority of all members elected thereto.

Powers of council.

SECTION 123. The powers of council shall be legislative only, and it shall perform no administrative duties whatever and it shall neither appoint nor confirm any officer or employe in the city government except those of its own body, except as may be otherwise provided in this act. All contracts requiring the authority of council for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate, and after authority to make such contract has been given and the necessary appropriation made, council shall take no further action thereon.

Ordinances; how adopted, etc.

SECTION 124. In passing, recording, publishing and authenticating ordinances, council shall be governed by the provisions of sections 1694, 1695, 1696, 1697, 1698 and 1699 of the Revised Statutes of Ohio, and for all purposes such sections shall be and remain in full force and effect; and in addition thereto all ordinances and resolutions requiring publication shall be published in two newspapers of opposite politics, published and of general circulation in such municipality, if such there be, and shall be published in a newspaper printed in the German language if there be in such municipality such a paper having a bona fide paid circulation within said municipality of not less than one thousand copies. Proof of such circulation shall be made by the affidavit of the proprietor or editor of such paper, which shall be filed with the city clerk of such municipality. Except as otherwise provided in this act, in all municipal corporations the statements, ordinances, resolutions, orders, proclamations, notices and reports required by this act,

Publication of ordinances, resolutions, reports, statements, etc.

or the ordinances of any municipality to be published, shall be published in two newspapers of opposite politics of general circulation therein, if there be such in the municipality, and for the following times: The statement of receipts and disbursements required shall be published once, the ordinances and resolutions once a week for two consecutive weeks, proclamations of elections once a week for two consecutive weeks, notices of contracts and of sale of bonds once a week for four consecutive weeks; all other matters shall be published once.

Mayor's veto.

SECTION 125. Every ordinance or resolution of council shall, before it goes into effect, be presented to the mayor for approval. The mayor, if he approve the same shall sign it, and return it forthwith to council; but if he do not approve it, he shall, within ten days after its passage or adoption, return the same with his objections to council, or, if council is not in session, return it to the next regular meeting thereof, which objections council shall cause to be entered upon its journal; provided, that the mayor may approve or disapprove the whole or any item, of an ordinance appropriating money. If he do not return such ordinance or resolution within the time limited in this section, it shall take effect in the same manner as if he had signed it, unless council by adjournment prevent its return. When the mayor disapproves an ordinance or resolution, or any part thereof, and returns it to council with his objections, council may, after ten days, reconsider the same, and if such ordinance, resolution or item, upon such reconsideration is approved by the votes of two-thirds of all the members elected to council, it shall then take effect as if signed by the mayor.

Authentication of ordinances and resolutions.

Ordinances and resolutions shall be authenticated by the signature of the presiding officer and the clerk of council.

Style of ordinances.

The style of all ordinances shall be, "Be it ordained by the council of the city of ————, state of Ohio," (filling the blank with the name of the city).

Salaries of municipal officers, clerks and employes.

SECTION 126. Council shall fix the salaries of all officers, clerks and employes in the city government, except as otherwise provided in this act, and, except as otherwise provided in this act, all fees pertaining to any office shall be paid into the city treasury. The salary of any officer, clerk or employe so fixed, shall not be increased or diminished during the term for which he may have been elected or appointed; provided, that the compensation of members of council, if any is fixed, shall be in accordance with the time actually consumed in the discharge of their official duties, but in no event shall exceed one hundred and fifty dollars per year, each, in cities having a population according to the last or any succeeding

federal census, of 25,000, or less, and for every 30,000 additional inhabitants determined as aforesaid, said compensation may be, but shall not exceed, an additional one hundred dollars per year each, but the salary shall in no city be greater than twelve hundred dollars per annum; and provided further, that the salaries of members of council shall be paid semi-monthly and a proportionate reduction in said salaries shall be made for the non-attendance of any member upon any regular or special meeting thereof.

Certain acts not repealed.

SECTION 127. All acts or parts of acts which apply to all cities in the state, which are not inconsistent herewith, and confer powers or impose duties upon the councils of cities, and all those which limit or restrict such councils shall be and remain in full force and effect; and all powers conferred by this act upon municipal corporations shall be exercised by council, unless otherwise provided herein.

2. EXECUTIVE.

Executive power vested in whom.

SECTION 128. The executive power and authority of cities shall be vested in a mayor, president of council, auditor, treasurer, solicitor, department of public service, department of public safety and such other officers and departments as are created by this act.

(a) CHIEF OFFICERS.

Mayor: election, term, qualifications, duties, etc.

SECTION 129. (Mayor.) The mayor shall be elected for a term of two years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation. The mayor shall be the chief conservator of the peace within the corporation and shall have such other powers and perform such other duties as are conferred and required in sections 1746, 1747 and 1748 of the Revised Statutes of Ohio; such as are provided in this act, and all other acts or parts of acts applying to all cities of the state and not inconsistent herewith.

Appointment, removal and suspension of officers, clerks and employes.

The directors and officers provided in this act shall have the exclusive right, subject to the limitations herein prescribed to appoint all officers, clerks and employes in their several respective departments or offices, and shall likewise, subject to the limitations herein prescribed, have sole power to remove or suspend any of such officers, clerks or employes.

Vacancies; how filled.

In case of death, resignation, removal or other disability of any director or officer provided for in this act, it shall be the duty of the mayor to appoint the successor of such director or officer, who shall hold such office until such disability is removed, or until the next regular municipal election, at which time said office shall be filled in the manner provided for in this act.

Directors of several departments of city to meet with mayor for consultation and advice.

SECTION 130. Whenever the mayor shall deem necessary, the directors of the several departments of the city shall meet with him at the time and place designated by said mayor, for consultation and advice upon the affairs of the city.

Mayor, directors and officers to attend meetings of council upon request.

SECTION 131. It shall be the duty of the mayor, the directors and of the several officers provided for in this act, to attend the meetings of council when specifically requested by council so to do, and to answer at such time such questions relative to the affairs of the city, under their respective management and control, as may be put to any of them by any member of the council.

President of council: election, term, qualification, duties, etc.

When shall be acting mayor.

Vacancy in office of mayor.

SECTION 132. (President of Council.) The president of council shall be elected for a term of two years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation, and shall preside at all regular and special meetings of council, but shall have no vote therein except in case of a tie. When the mayor is absent from the city, or is unable for any cause to perform his duties, the president of council shall be the acting mayor. In case of the death, resignation or removal of the mayor, the president of council shall become the mayor, and serve for the unexpired term, and until the successor is elected and qualified; and the president pro tem. of council shall thereupon become president thereof, and shall have the same rights, duties and powers as his predecessor, and the vacancy thus created in council shall be filled as other vacancies, and council shall elect another president pro tem. Provided, further, that while the president of the city council is acting as mayor he shall not serve as president of council.

Auditor: election, term, qualification, duties, etc.

SECTION 133. (Auditor.) The auditor shall be elected for a term of three years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation. The auditor shall keep the books of the city, exhibit accurate statements of all moneys received and expended, and of all property owned by the city, and the income derived therefrom, and of all taxes and assessments. At the end of each fiscal year or oftener if required by council, he shall examine and audit the accounts of all officers and departments, and shall prescribe the form of accounts and reports to be rendered to his department, and the form and method of keeping accounts by all other departments and shall have the inspection and revision thereof; but nothing herein contained shall be construed to repeal or impair the effect of an act entitled, "An act to create a bureau of inspection and supervision of public offices, and to establish a uniform system of public accounting, auditing and reporting under the administration of the auditor of state," passed May 10, 1902. Upon the death, resignation,

removal or expiration of the term of any officer, the auditor shall audit the accounts of such officer, and if such officer be found indebted to the city, he shall immediately give notice thereof to council and to the solicitor, and the latter shall proceed forthwith to collect the same. He shall not allow the amount set aside for any appropriation to be overdrawn, or the amount appropriated for one item of expense to be drawn upon for any other purpose, or unless sufficient funds shall actually be in the treasury to the credit of the fund upon which such voucher is drawn. Whenever any claim is presented to him, he shall have power to require evidence that such amount is due, and for this purpose may summon any agent, clerk or employe of the city, or any other person, and examine him upon oath or affirmation concerning such voucher or claim.

Further as to powers and duties of auditor.

SECTION 134. Detailed statements of the receipts and expenditures of the several officers and departments for the preceding month shall be made to the auditor by the heads thereof on the first Monday of each month. The auditor shall countersign each receipt given by the treasurer before it shall be delivered to the person entitled to receive the same, and shall charge the treasurer with the amount thereof; and if the auditor shall approve any voucher contrary to the provisions of this act, he and his sureties shall be individually liable for the amount of the same. The auditor shall have the powers and perform the duties conferred and required in sections 1756, 1757, 1758, 1759 and 1761, of the Revised Statutes of Ohio, and such other powers and duties as may now or hereafter be conferred or required by ordinance or by any law applying to all cities of the state. Council shall provide a seal for the auditor, in the center of which shall be the name of the city, and around the margin the words "City Auditor," an impression of which seal shall be affixed to all transcripts, orders, certificates or other papers requiring authentication.

Seal.

Treasurer: election, term, qualification, powers and duties.

SECTION 135. (Treasurer.) The treasurer shall be elected for a term of two years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation. The powers and duties of the treasurer shall be such as are provided in sections 1767, 1768 and 1769, of the Revised Statutes of Ohio; such as are provided in this act, and all others acts or parts of acts applying to all cities of the state and not inconsistent with this act.

Deposit of moneys.

The treasurer, upon giving bond as required by council, may, by and with the consent of his bondsmen, deposit all funds and public moneys of which he has charge in such bank or banks, situated within the city, which may seem best for the protection of said funds, which said deposit shall be subject at all times to the

warrants and orders of the treasurer required by law to be drawn, and all profits arising from said deposit or deposits shall inure to the benefit of said funds; provided, that such deposit shall in no wise release the treasurer from liability for any loss which may occur thereby. Council shall have authority to provide by ordinance for the deposit of all public moneys coming into the hands of the treasurer in such bank or banks situated within the city which may offer, at competitive bidding, the highest rate of interest, and give good and sufficient bond, of some approved guaranty company, in a sum at least double the amount to be deposited, and to determine in such ordinance the method by which such bids shall be received, the authority which shall receive them, the time for the contracts for which deposits of public moneys may be made, and all details for carrying into effect the authority here given; provided, that all such proceedings in connection with such competitive bidding and deposit of such moneys shall be conducted in such manner as to insure full publicity, and shall be open at all times to the inspection of any citizen; and, provided further, that as to any deposits made under authority of an ordinance of council pursuant hereto, neither the treasurer nor his bondsmen, if the treasurer has exercised due care, shall be liable for any loss occasioned thereby.

Further duties of treasurer.

SECTION 136. The treasurer shall receive and disburse all funds of the city including the school funds, and such other funds as arise in or belong to any department or part of the city government.

Solicitor: election, term and qualifications.

SECTION 137. (Solicitor.) The solicitor shall be elected for a term of two years, and shall serve until his successor is elected and qualified. The solicitor shall be an elector of the city, and admitted to practice law in the courts of Ohio.

Powers and duties.

The powers and duties of the solicitor shall be such as are provided in sections 1776, 1777, 1778, 1779 and 1780, of the Revised Statutes of Ohio; such as are provided in this act, and all other acts or parts of acts having uniform operation throughout the state and not inconsistent with this act, and he shall prepare all contracts, bonds and other instruments in writing in which the city is concerned, and shall serve the several directors and officers mentioned in this act as legal counsel and attorney; provided that no action, as provided in sections 1777 and 1778, to enjoin the performance of a contract or the payment of any bonds heretofore or hereafter entered into or issued by a municipal corporation, shall be brought or maintained unless such action is commenced within one year from the date of such contract or bonds, and this provision shall apply to pending cases. The solicitor shall also be prosecuting attorney of the police court, and shall receive for this service such

Shall be prosecuting attorney of police court.

compensation as council may prescribe, and such additional compensation as the county commissioners shall allow; provided, that where council allows an assistant or assistants to the solicitor, said solicitor may designate an assistant or assistants to act as prosecuting attorney or attorneys of the police court. The duties of the solicitor as prosecuting attorney of the police court shall be such as are provided in section 1813 of the Revised Statutes; such as are provided in this act, and in all other acts or parts of acts applying to all cities of the state and not inconsistent herewith. In case of the inability or absence of the solicitor or any of his assistants to act as prosecuting attorney of the police court, the provisions of section 1815 of the Revised Statutes shall apply.

(B) Department of Public Service.

Department of public service.

SECTION 138. In every city there shall be a department of public service which shall be administered by three or five directors and the number of said directors shall be fixed by ordinance or resolution of council. Such directors shall organize as a board to be known as the "board of public service." Directors of public service shall be elected for a term of two years and shall serve until their successors are elected and qualified. They shall be electors of the city. They shall make their own rules and all regulations for the administration of affairs under their supervision.

Directors: number, election, term, qualifications, etc.

General powers of board.

SECTION 139. The directors of public service shall be the chief administrative authority of the city, and shall manage and supervise all public works and all public institutions, except where otherwise provided in this act.

Powers and duties.

SECTION 140. The directors of public service shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, docks, landings, market houses, bridges, viaducts, aqueducts, sidewalks, sewers, drains, ditches, culverts, ship channels, streams and water courses; the lighting, sprinkling and cleaning of all public places, and the construction of all public improvements and public works, except as otherwise provided in this act.

Powers and duties.

SECTION 141. The directors of public service shall have the management of all municipal water, lighting and heating plants, parks, baths, market houses, cemeteries, crematories, sewage disposal plants and farms, as well as all public buildings and other property of the corporation not otherwise provided for herein.

Said directors of public service shall also manage and control all houses of refuge and correction, workhouses, city farm schools, infirmaries, hospitals, pest houses and all other charitable and reformatory institutions now or hereafter established or maintained by any

city; and in the control and supervision of such institutions said directors of public service shall be governed by the provisions, so far as the same are consistent with this act, of sections 2050, 2051, 2052, 2053, 2053-1, 2053-2, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2081, 2092, 2093, 2094, 2099, 2100, 2102, 2105, 2106, 2165, 2168, 2169, 2171 and 2172 of the Revised Statutes of Ohio.

Board shall constitute platting commission.

SECTION 142. The directors of public service shall also constitute a platting commission for the city, whenever council shall deem it expedient to plat any portion of the territory within the corporate limits in which the necessary or convenient streets, or alleys have not already been accepted by the corporation so as to become public streets; and such directors, acting as such platting commission, shall have all the powers and perform all the duties conferred or required in sections 2629, 2630, 2631, 2632, 2633, 2634, 2635 and 2636 of the Revised Statutes of Ohio.

As to contracts.

SECTION 143. The directors of public service may make any contract or purchase supplies or material or provide labor for any work under the supervision of that department not involving more than five hundred dollars ($500). When any expenditure within said department, other than the compensation of persons employed therein, exceeds five hundred dollars, such expenditure shall first be authorized and directed by ordinance of council and when so authorized and directed, the directors of public service shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the city. The bids shall be opened at 12 o'clock noon, on the last day for filing the same by the clerk of such department of public service and publicly read by him. Each bid shall contain the full name of every person or company interested in the same, and shall be accompanied by a sufficient bond or certified check on some solvent bank, that if the bid is accepted a contract will be entered into and the performance of it properly secured. If the work bid for embraces both labor and material they shall be separately stated with the price thereof. The board may reject any and all bids. The contract shall be between the corporation and the bidder, and the corporation shall pay the contract price in cash. Where a bonus is offered for completion of contract prior to a specified date, the department may exact a prorated penalty in like sum for every day of delay beyond a specified date. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein, shall be rejected.

Alterations or modifications in contract.

Whenever it becomes necessary in the opinion of the directors of the appropriate department in cities, or

of the council in villages, in the prosecution of any work or improvement under contract to make alterations or modifications in such contract, such alterations or modifications shall only be made by such directors in cities or council in villages, by resolution, but such resolution shall be of no effect until the price to be paid for the work and material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the contractor, and the mayor in villages, and the directors of the appropriate department in cities, on behalf of the corporation; and no contractor shall be allowed to recover anything for work or material, caused by any alteration or modification, unless such contract is made as aforesaid; nor shall he, in any case, be allowed, or recover for such work and material, or either, more than the agreed price. The provisions of section 794 of the Revised Statutes of Ohio, so far as the same may apply, shall remain in full force and effect.

How contracts to be made.

SECTION 144. All contracts made by the directors of public service shall be executed by them in the name of the city, and a duplicate copy shall be filed in the office of the department of public service, and a copy with the auditor of the city, and no liability shall be created against the city as to any matters under the supervision of said departments except by its express authority. No resolution or order shall be adopted unless concurred in by a majority of the directors of public service, and no director of public service or officer or employe of said department shall be interested in any contract under its supervision. The directors of public service shall keep a record of their proceedings, a copy of which, certified by the clerk of the department, shall be competent evidence in all courts.

Employment of superintendents, inspectors, clerks, laborers, etc.

SECTION 145. The directors of public service may employ such superintendents, inspectors, engineers, harbor masters, clerks, laborers, and other persons, as may be necessary for the execution of the powers and duties of this department, and may establish such subdepartments for the administration of affairs under said directors as may be deemed proper. The compensation and bonds of all persons appointed or employed by the department of public service shall be fixed by said directors, and no person shall be removed except for cause satisfactory to said directors, or a majority of them.

(C) Department of Public Safety.

Department of public safety: directors, number, appointment, qualifications, term, etc.

SECTION 146. In every city there shall be a department of public safety, which shall be administered by two or four directors, as council shall, by resolution or ordinance, determine, provided, that when the number of directors has been fixed by council, the same shall not be changed during the term for which any one of said di-

rectors has been appointed. The directors of public safety shall be electors of the city, well known for their intelligence and integrity, and shall be appointed by the mayor, with the advice and consent of two-thirds of all the members elected to council, for terms of four years; provided, that if the number of said directors is two, then at the first appointment hereunder, one director shall be appointed for four years, and one for two years; and thereafter as the terms expire, one director shall be appointed for four years; and if the number of said directors is four, then at the first appointment hereunder, two shall be appointed for two years and two for four years, and thereafter as the terms expire two directors shall be appointed for four years, and the mayor shall have power to fill all vacancies for unexpired terms, in like manner as original appointments are made. Not more than half of the number of directors of public safety shall belong to the same political party and in making appointments or filling vacancies the mayor shall preserve this requirement; provided, however, that if said original appointments are not made and confirmed within thirty days from and after the time herein fixed for said appointments, and, if any vacancy is not filled within thirty days from the date when said vacancy occurs and in the manner herein specified, then and in either such event the governor of the state of Ohio shall make said original appointments or fill such vacancy in the manner provided herein.

When appointments not made and confirmed within 30 days, governor to appoint.

The bonds and compensation of the directors of public safety shall be fixed by council. The directors shall organize as a board, which shall be known as the "board of public safety." One of their number shall be chosen each year to act as president, and it shall require a majority of the members to constitute a quorum or to pass any measure or authorize any act.

Bonds; compensation; organization.

SECTION 147. All powers and duties connected with and incident to the appointment, regulation and government of the police and fire departments of the city, together with the control of the fire alarm telegraph and telephone systems shall be vested in the mayor and the board of public safety as hereinafter provided. The mayor shall be the chief conservator of the peace within the limits of the corporation. The directors of public safety shall make all contracts with reference to the management of the police and fire department, subject to the restrictions hereinafter imposed.

General powers and duties.

SECTION 148. The chief of police shall be the executive head of the department, under the direction of the mayor; provided, that the chief shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employes in the department, under such general rules and regulations as may be prescribed by

Police department.

Emergency policemen.

the board of public safety; and provided, further, that in case of riot or other like emergency, the mayor shall have power to appoint additional patrolmen and officers for temporary service (who need not be in the classified list of such department), the number of which shall be first determined by resolution of the board of public safety, but the length of time for which such additional officers or patrolmen shall be employed shall be limited to the time during which such emergency may exist.

Police department.

SECTION 149. The police department of each city shall be composed of a chief of police and such inspectors, captains, lieutenants, sergeants, corporals, detectives, patrolmen, and other police court officers, station house keepers, drivers, and substitutes as shall have been provided by ordinance or resolution of council.

The directors of public safety shall have the exclusive management and control of all other officers, surgeons, secretaries, clerks and employes as shall have been provided by ordinance or resolution of council.

The directors of public safety may commission private policemen who may not be in the classified list of said department under such rules and regulations as council shall prescribe.

The chief of police shall be appointed from the classified list of such department.

Fire department.

SECTION 150. The chief of the fire department shall be the executive head of the department, under the direction of the mayor; provided, that the chief shall have exclusive control of the stationing and transferring of all firemen and other officers and employes in the department, under such general rules and regulations as may be prescribed by the board of public safety; and provided further that in case of riot or other like emergency the mayor shall have power to appoint additional firemen and officers for temporary service (who need not be in the classified list of such department), the number of which shall be first determined by resolution of the board of public safety, but the length of time for which such additional officers or firemen shall be employed shall be limited to the time during which such emergency may exist. The fire department of each city shall be composed of a chief of the fire department and such marshals, assistant marshals, firemen, telephone and telegraph operators as shall have been provided by resolution or ordinance of council. The directors of public safety shall have the exclusive management and control of such other officers, surgeons, secretaries, clerks, and employes as shall have been provided by ordinance or resolution of council.

Emergency firemen.

The chief of the fire department shall be appointed from the classified list of such department.

SECTION 151. The police force shall preserve the peace, protect persons and property and obey and enforce all ordinances of council and all criminal laws of the state and the United States. The fire department shall protect the lives and property of the people, in case of fire, and both the police and fire departments shall perform such other duties, not inconsistent herewith, as council may by ordinance prescribe. The police and fire departments in every city shall be maintained upon the merit system, as provided in this act.

General duties of police and fire departments.

SECTION 152. The chief of the police and the chief of the fire department shall have exclusive right to suspend any of the deputies, officers or employes in his respective department and under his management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given him by the proper authority, or for any other reasonable and just cause.

Power of chief of police and chief of fire department as to suspension of deputies, officers or employes.

If any such employe be suspended as herein provided, the said chief of police or the chief of the fire department, as the case may be, shall forthwith in writing, certify such fact, together with the cause of such suspension, to the mayor, who shall within five days from the receipt of the same, proceed to inquire into the cause of such suspension and render his judgment thereon and his judgment in the matter shall be final, except as otherwise provided in this act.

Procedure thereupon.

The mayor shall have the exclusive right to suspend the chief of the police department or the chief of the fire department for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given him by the proper authority or for any other reasonable and just cause. In the event that either the said chief of police or chief of the fire department shall be suspended as herein provided it shall be the duty of the mayor to forthwith certify such fact, together with the cause of such suspension, to the board of public safety, which shall within five days from and after the date of the receipt of such notice proceed to hear said charges and render its judgment thereon, which shall be final.

Power of mayor as to suspension of chief of police or chief of fire department.

SECTION 153. The directors of public safety shall classify the service in the police and fire departments in conformity with the ordinance of council determining the number of persons to be employed therein, and shall make all rules for the regulation and discipline of such departments and for the qualification and examination of all appointees thereunder, except as otherwise provided in this act.

Classification of service in police and fire department.

SECTION 154. The directors of public safety shall have power to make all contracts and expenditures of money,

Contracts relative to police or fire department.

for acquiring lands for the erection or repair of station houses, engine houses, the erection and building of fire cisterns and plugs and the purchase of engines, apparatus, and all other supplies necessary for the police and fire departments; provided, that no obligation involving an expenditure of more than five hundred dollars shall be created except upon the approval of the city council and by written contract, which shall be awarded to the lowest and best bidder after advertisement for ten days in a newspaper of general circulation in the city. They shall make no sale or disposition of any property belonging to the city without first being authorized by resolution or ordinance of the city council.

Relief of members of police or fire department disabled in the discharge of their duty.

SECTION 155. Council may provide by general ordinance for the relief out of the police or fire funds, of members of either department temporarily or permanently disabled in the discharge of their duty; but nothing herein contained shall be held to impair, restrict or repeal any portion of the act passed April 23, 1902, entitled, "An act authorizing the levy of taxes in municipalities to provide for firemen's, police and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds."

In what cases mayor to prefer charges against a director of public safety.

SECTION 156. The board of public safety shall enforce and administer the merit system as provided in this act. It is hereby made the duty of the mayor to prefer charges with council against any director of public safety for incompetence, neglect of duty, malfeasance in office, habitual drunkenness or gross immorality; and any manifest failure on the part of any director of public safety to enforce the provisions of this act according to its true intent and purpose shall be deemed incompetence. Upon such charges being filed with the council it shall be the duty of council to proceed to inquire into said charges in the manner provided in this act for the removal of other officers of the municipality.

Duty of council thereupon.

Member of the board of public safety not to hold other office; oath.

SECTION 157. No member of said board of public safety shall hold any other lucrative office or employment under the United States, the state of Ohio, county, or any municipal corporation or political division thereof, and shall, before entering upon the discharge of his duty, take the oath prescribed by the constitution of the state.

Classification of offices, places of appointment and employment.

SECTION 158. The board of public safety shall within thirty days after the organization of such board, classify all offices and places of appointment and employment in each city in the department of public safety, with reference to the examinations hereinafter provided for. The offices, employment and places so classified by the said board of public safety shall constitute the classified service of the department of said city and no appointments to such places shall be made except under and according to the rules hereinafter mentioned.

Immediately upon the classification of such department, such board shall furnish to the mayor a list of all offices, employment and places in any way connected with such department within said classified service, with the names of the incumbents, their compensation and the nature of their duties; and said board shall from time to time promptly furnish to the said mayor in writing at his request all other information desired by him for the proper fulfillment of his duties. Information to be furnished to mayor.

SECTION 159. Every application, in order to entitle the applicant to appear for examination or to be examined, must state in his or her own handwriting the facts, under oath, on the following subjects: Application for examination.

1st. Full name, residence and postoffice address.

2d. Nationality.

3d. Age.

4th. Place of birth.

5th. Health and physical capacity for public service.

6th. Previous employment in public service.

7th. Business or employment, and residence for the previous five years.

8th. Education.

9th. Such other information as may be reasonably required by said board touching the applicant's fitness for public service.

SECTION 160. No person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, appointment or employment, to which the provisions of the merit system as provided in this act are applicable; nor shall any vendor of intoxicating liquors be so appointed or retained.

No person shall be appointed to any office, place or employment to which the provisions of the merit system as contained in this act are applicable within one year after his conviction of any offense against the laws of this state; and if any person holding such appointment shall be convicted of the violation of any such law he shall be immediately discharged. Who not to be appointed or retained in office.

No person shall be eligible for appointment unless he be a citizen of the state of Ohio and of the city in which such appointment is made, and shall have been a resident of such city for at least one year prior to the time of such appointment.

SECTION 161. Said board of public safety shall make all proper and necessary rules to carry out the purposes of the merit system as contained in this act, and for examinations, appointments, promotions and removals in accordance with its provisions. Rules and regulations.

One of the said rules shall provide that any personal

solicitation to any officer or member of said board or to the appointing power, in favor of any candidate by any person whomsoever, unless fraudulently done in order to injure him, shall be taken to be, and deemed to have been done at the instance of the candidate himself and shall disqualify him from competing at any examination for appointment for, and during the term of one year thereafter.

Said board may from time to time make changes in the original rules, and all examinations shall be under the direction of said board, and all rules and all changes therein shall forthwith be printed for distribution by said board, and the board shall give notice of the time and place where said rules may be obtained by publication in a newspaper in such city or of general circulation therein, and in each of such publications there shall be specified the date, not less than ten days subsequent to the date of such publication, when said rules shall go into operation.

Examination of applicants for office or places of appointment.

SECTION 162. All applicants for offices or places of employment in such classified service shall be subjected to examination, which shall be competitive and free to all citizens of the United States, with specified limitations as to residence, health, habits and moral character herein provided; provided that no educational test shall be made of an applicant other than that actually required for the particular position for which he applies. Such examinations shall be practical in character and relate to those matters which will fairly test the relative capacity of the persons examined to discharge the duties of the positions to which they seek to be appointed, and shall include tests of physical qualifications and health and where appropriate, of manual skill.

No question in any examination shall relate to political or religious opinions or affiliations.

Publication of notice of examination.

SECTION 163. Notice of the time and place and general scope of every examination shall be given by said board by publication once each week for two weeks preceding such examination, in at least two daily newspapers of opposite politics published in such city or of general circulation therein, if such there be, and such notice shall be posted by said board in a conspicuous place in the office of the mayor, the clerk of the city council, and of said board, two weeks before such examination; such further notice of examinations may be given as is by the board prescribed.

Register of names of persons eligible to appointment.

SECTION 164. From the results of the examinations made by said board, said board shall prepare a register, for each grade or class of positions in the classified service of such city, of the names of the persons whose general average standing upon such examination for

such grade is not less than the minimum fixed by the rules of said board and where otherwise eligible; and such persons shall take rank upon the register as candidates, in the order of their relative examinations, as determined by examination, without reference to priority of the time of examination.

Promotion.

SECTION 165. The board shall, by its rules, provide for promotions in the classified service, on the basis of ascertained merit, and seniority in service, and on examination, and shall provide in all cases where it is practicable, that vacancies shall be filled by promotion. Examinations for promotion may be competitive or non-competitive as the board may determine, among members of the next lower rank, and it shall be the duty of the board to submit to the mayor the names of not more than three applicants having the highest rating, for each promotion.

Examination for promotion.

The method of examination and the rules governing the same, and the method of certifying shall be the same as provided for applicants for original appointment; or such examinations may be non-competitive as provided by this section.

Method of appointment.

SECTION 166. The mayor shall notify said board of any vacancy which may exist in the classified department of such city, and said board shall certify to said mayor the names and addresses of the three candidates standing highest upon the register, for the class or grade to which said position belongs. The mayor shall notify said commission of each position to be filled, separately, and the mayor shall fill such place by appointment of one of the persons certified to him by said board, which appointment shall be on probation for such length of time as shall be fixed by the rules of said board; such board may strike off names of candidates from the register after they have remained thereon for more than two years.

At or before the expiration of the period of probation, the mayor of the city in which the candidate is employed or has been appointed, may, by and with the consent of said board, discharge him upon giving in writing to said board his reason therefor. If at the end of such period of probation such person has not been discharged his appointment shall be deemed complete.

Temporary appointments.

To prevent the stoppage of public business or to meet extraordinary exigencies, as provided in this act, the mayor may make temporary appointments.

No removal or discharge except for cause.

SECTION 167. No officer or employe in the department of public safety shall be removed or discharged except for cause; and the cause of removal of any person shall be forthwith stated in writing by the mayor to the board, and shall be filed by the said board in its office, and shall be open to public inspection.

No officer, secretary, clerk, sergeant, patrolman, fireman or other employe serving in the police or fire departments of any city of the state at the time this act goes into effect shall be removed or reduced in rank or pay except in accordance with the provisions of this act.

Mayor to give notice of appointment, resignations, vacancies, etc.

SECTION 168. Immediate notice in writing shall be given by the mayor to said board, of all permanent appointments in such department, and of all promotions, resignations or vacancies from any cause, in such department, and of the date thereof, and a record of the same shall be kept by said board.

Investigation of enforcement of merit system.

SECTION 169. The mayor, or any one appointed by him, shall investigate the enforcement of the merit system, as provided in this act, and all the rules prescribed by the board of public safety, and the conduct and action of the appointees in such department, and may inquire as to the nature, tenure and compensation of all offices or places in the public service thereof. In the course of such investigation, the mayor or such appointee shall have power to administer oaths and said mayor or appointee shall have power to secure by subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation; such subpoena shall be served by any officer authorized to serve civil process.

Report of the board to mayor.

SECTION 170. Said board of public safety, shall, at the time provided for the making of reports by municipal officers to the mayor, make and deliver to the mayor, and to council, a report showing the rules in force in such department, the practical effects thereof and any suggestions it may approve for the more effectual accomplishment of the purposes of said department. The mayor, or council may require a report from said board of public safety at any other time.

Clerk of board; duties.

SECTION 171. The clerk of the board of public safety shall keep the minutes of its proceedings, preserve all reports made to it and made by it, keep a record of all examinations held under its direction, and perform such other duties as the board of public safety shall prescribe.

Offenses in connection with merit system.

SECTION 172. No person or officer shall wilfully or corruptly, by himself or in co-operation with one or more persons, defeat, deceive or obstruct any person, with respect to his right to examination, or falsely or corruptly mark, grade or estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or wilfully or corruptly make any false representation concerning the same or concerning the person examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the pros-

pects or chances of any person so examined or to be examined, or to be appointed, employed or promoted; or wilfully impersonate any other person or permit or aid, in any manner, any other person to impersonate him in connection with any examination or registration or application, or request to be examined or registered, or who shall make known or assist in making known to any applicant for examination, in advance of such examination, any question to be asked on such examination, shall for each offense be deemed guilty of a misdemeanor.

Bribery.

SECTION 173. No applicant for appointment in said department, either directly or indirectly, shall pay or promise to pay any money or other valuable thing to any person whomsoever, for or on account of his appointment or proposed appointment, and no officer or employe shall pay or promise to pay either directly or indirectly to any person any money or valuable thing whatsoever for or on account of his promotion.

Recommendations for appointment or promotion.

SECTION 174. No applicants for appointment or promotion in said department shall ask for or receive a recommendation or assistance from any officer or employe in said department or any other department of the city government, or from any person, upon the consideration of any political service rendered or to be rendered to or for any such person, or for the promotion of such person to any office or appointment.

Political assessments and contributions.

SECTION 175. No person shall solicit orally or by letter, or be in any manner concerned in soliciting any assessment, contribution or payment for any party or any political purpose whatsoever from any officer or employe who is included within the department of public safety of the city government of any such city.

Political assessments and contributions.

SECTION 176. No person shall in any room or building occupied for the discharge of the official duties of any officer or employe in the department of public safety of any city, solicit orally or by written communication, delivered therein, or in any other manner, or receive therein any contribution of money or other thing of value for any party or political purpose whatsoever. No officer, agent, clerk or employe in the government of such city who may have charge of or control of any building, office or room occupied by the department of public safety or any branch thereof, for any such purpose, shall permit any person to enter the same for the purpose of therein soliciting or delivering written or oral solicitations or receiving or giving notice of any political assessments.

Political assessments and contributions.

SECTION 177. No officer or employe in the department of public safety shall directly or indirectly give or hand over to any officer or employe in said department or to any officer, or employe in said service or to any public official or other person whomsoever any money or other

valuable thing on account of or to be applied to the promotion of any party or political object whatever.

Political assessments and contributions.

SECTION 178. No officer or employe in the classified service of any city shall discharge, degrade or promote or in any manner change the official rank or compensation of any officer or employe in the department of public safety or promise or threaten to do so on account of such officer or employe withholding or neglecting to make any contribution of money or other valuable thing to any party or political purpose, or for refusal or neglect to render any party or political service.

Corrupt use of political authority or influence.

SECTION 179. No person while holding any office in the department of public safety or while seeking nomination therefor, or election thereto, or appointment to any such office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary upon the consideration or condition that the vote or political influence or action of the last named person or any other, shall be given or used in behalf of any candidate, officer, or party, or upon any other corrupt condition or consideration.

Auditor shall not allow claims for services of persons employed in violation of this act.

SECTION 180. No clerk, auditor or accounting officer of any city shall allow the claim of any public officer for services of any deputy or other person employed in the department of public safety in violation of the provisions of this act.

Mayor's certification to auditor of appointments and vacancies.

SECTION 181. The mayor shall certify to the auditor all appointments to offices and places in the department of public safety of such city, and all vacancies occurring therein, whether by dismissal, removal, resignation or death, and the date thereof.

Refusal to obey subpœna.

SECTION 182. Any person who shall be served with subpoena to appear and testify or to produce books and papers, which subpoena has been issued by the mayor or by any person appointed by or acting under his control, in the course of an investigation conducted under the provisions of section 169 of this act, and who shall refuse or neglect to appear or testify, or to produce books and papers relevant to said investigation as noted in such subpoena shall be guilty of a misdemeanor, and shall, on conviction, be punished as provided in section 183 of this act.

Witness' fees and mileage.

The fees for witnesses for attendance and travel shall be the same fees as witnesses receive before the court of common pleas of this state, which fees and the fees of the officer serving such witnesses shall be paid from the appropriation for the expenses of said department.

Procedure for compelling attendance of witnesses.

The court of common pleas of the county in which such city is situate, or any judge of said court, either in term time or vacation, upon application of the mayor, or his appointee, may, in his or their discretion, compel the attendance of witnesses, the production of books and papers and the giving of testimony before such mayor or appointee, by attachment for contempt or otherwise, in the same manner as the production of evidence may be compelled before said court. Every person, who, having taken oath or made affirmation before said mayor, or his appointee conducting an examination and authorized to administer oaths, shall wilfully swear or affirm, corruptly or falsely, shall be guilty of perjury, and upon conviction shall be punished accordingly.

Perjury.

Penalty for violation of this act relating to the merit system.

SECTION 183. Any person who shall wilfully or through culpable negligence, violate any of the provisions of this act, relating to the merit system in the department of public safety, or of any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be fined in a sum of not less than fifty dollars and not exceeding one thousand dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, in the discretion of the court.

Conviction under preceding section shall work forfeiture of office and disqualification to hold.

SECTION 184. If any person shall be convicted under the next preceding section, any public office or place of public employment which such person may hold, shall by force of such conviction be rendered vacant, and such person shall be incapable of holding any office or place of public employment in such city for the period of five years from the date of such conviction.

Prosecutions, who to institute.

SECTION 185. Prosecutions for violations of the merit system, as contained in this act, shall be instituted by the prosecuting attorney of the county in which the offense is alleged to have been committed, by the city solicitor, or by the mayor, acting through special counsel, employed by him, and said suits shall be conducted and directed by the prosecuting officers who institute them unless they request the aid of other prosecuting officers.

Right of person removed by the mayor to appeal to board of public safety.

SECTION 186. Any person in the department of public safety in any city who shall be removed from his position of employment or appointment, by the mayor, shall have the right to appeal from the decision of such officer, to the board of public safety within ten days from and after the date of his removal, and said board of public safety shall hear said appeal within ten days from and after the filing of the same with it, and its judgment in the matter shall be final.

Board of health; appointment, etc.

SECTION 187. The council of each city and village shall establish a board of health; such board shall be composed of five members to be appointed by the mayor and

confirmed by council, who shall serve without compensation, and a majority of whom shall constitute a quorum; and the mayor shall be president by virtue of his office. In villages the council may appoint a health officer instead of a board of health, and fix his salary and term of office, such appointee to be approved by the state board of health, who shall have all the powers and perform all the duties granted to or imposed upon boards of health, except that all rules, regulations or orders of a general character and required to be published, made by such health officer, shall be approved by the state board of health. And if any city, village or township fails or refuses to establish a board of health or appoint a health officer, the state board of health may appoint a health officer for such city, village or township and fix his salary and term of office, and such health officer shall have the same powers and duties as health officers appointed in villages in lieu of a board of health, as herein provided, and the salary of such health officer, as fixed by the state board of health, and all necessary expenses incurred by him in performing the duties of a board of health shall be paid by and be a valid claim against the city, village or township for which such health officer is appointed to serve.

In what cases state board of health may appoint health officer.

Quarantine regulations.

SECTION 188. The state board of health, or the board of health of any city, village or township, in time of epidemic or threatened epidemic, or when any dangerous communicable disease is unusually prevalent, may, after a personal investigation by the members or executive officer of such board to establish the facts in the case, and not otherwise, impose a quarantine on vessels, railroads, stages, or any other public or private vehicles conveying persons, baggage or freight, or used for such purpose, and may make and enforce such rules and regulations as such board may deem wise and necessary for the protection of the health of the people of the community or state; provided, however, that the running of any train or of any cars on any steam or electric railroad, or of steamboats, vessels or other public conveyances shall not be prohibited. A true copy of such quarantine rules and regulations adopted by a local board of health, shall be immediately furnished by such board to the state board of health. Such quarantine rules and regulations, when established by a local board of health, after careful investigation by the state board of health, may be altered, relaxed or abolished by order of said state board and thereafter no change shall be made except by the order of the state board of health, or by the local board, to meet some new and sudden emergency.

Certain laws not repealed.

SECTION 189. The board of health herein provided for shall have all the powers and perform all the duties, not inconsistent with this act, which are conferred or

required in sections 2115, 2116, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147 and 2148 of the Revised Statutes of Ohio, as amended May 7, 1902 (95 O. L., 421), and section 2114, of the Revised Statutes of Ohio, as amended May 12, 1902, (95 O. L., 643), and for all purposes such sections as amended shall remain in full force and effect; and nothing herein contained shall be held to impair, restrict or repeal any portion of the act passed April 23, 1902, entitled "An act authorizing the levy of taxes in municipalities to provide for firemen's, police and sanitary police pension or relief funds, and to create and perpetuate boards of trustees for the administration of such funds;" provided, further, that local boards of health shall not have power to close public highways or to prohibit travel thereon, nor to interfere with public officers not afflicted with or directly exposed to any contagious or infectious disease, in the discharge of their official duties; nor to establish a quarantine of one city, village or township against another city, village or township, as such, without permission first obtained from the state board of health, and under such regulations as may be established by the state board. All employes now serving in the health department shall continue to hold their said positions and shall not be removed from office or reduced in rank or pay, except for cause, assigned and after a hearing has been afforded them before the board.

Quarantine regulations.

3. Judicial.

Police court.

SECTION 190. In every city where a police court is now established by law, whether by general acts or by acts designating the city by grade or class or otherwise, said police court shall continue to exercise all powers and functions conferred by said general or special acts, and shall be known as the police court of the city in which the same now exists.

Jurisdiction thereof.

SECTION 191. The police court of each city as heretofore established and now existing shall have the jurisdiction conferred in any general or special act creating or governing the same, and the judge or judges and clerk, assistant clerks, and all other officers and employes of said court, except the prosecuting attorney, shall be elected or appointed and shall continue to exercise their powers and duties in the manner provided in said existing laws.

How judges, clerks, etc., chosen.

Certain acts not repealed.

SECTION 192. All acts or parts of acts providing for such police courts, or regulating the procedure therein, including an act entitled "An act to amend section 6565 of the Revised Statutes of Ohio, passed April 10th, 1902," shall be and remain in full force and effect.

IV.

ORGANIZATION OF VILLAGES.

1. LEGISLATIVE.

Council: number of members, election, term, etc.

SECTION 193. The legislative power of every village shall be vested in, and exercised by, a council, composed of six members, who shall be elected by the electors of the village, at large, for terms of two years and shall serve until their successors are elected and qualified. At the first municipal election after the taking effect of this act, three councilmen shall be elected for two years, and three councilmen for one year; and each year thereafter three councilmen shall be elected for a term of two years, and shall serve until their successors are elected and qualified.

Council shall fix bonds and compensation of all officers to be elected or appointed.

SECTION 194. Not later than the first day of January next after the passage of this act, the present council in each municipal corporation classified as a village in this act, shall fix the compensation and bonds of all officers to be elected at the first election held under the authority of this act, as well as the compensation and bonds of all officers to be first appointed hereunder; provided that no compensation shall be allowed to members of council; and provided, further, that the compensation so fixed shall not be increased or diminished during the term for which any such officer may be elected or appointed.

President pro tem.

Village employes.

SECTION 195. The council shall, at the first meeting in the month of May of each year, immediately proceed to elect a president pro tem. from their own number, and from time to time provide such employes for the village as they may determine. The president pro tem. of council shall serve for a period of one year, but the employes can be removed at any regular meeting by a majority of the members elected to council.

Powers of council.

SECTION 196. Councils of villages shall be governed by the provisions, so far as applicable, of sections 119, 120, 121, 122, 124 and 125 of this act.

Mayor shall have no veto power.

Provided, however, that the provisions of section 125 of this act, so far as said provisions relate to the veto power of the mayor, shall not be applicable to villages; and wherever in said sections the word "city" appears, the word "village" shall be substituted for this purpose.

Compensation and bonds of officers, clerks and employes.

SECTION 197. Council shall fix the compensation and bonds of all officers, clerks and employes in the village government, except as otherwise provided in this act. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which

any officer, clerk or employe may have been elected or appointed; provided, that members of council shall serve without compensation, and they shall have such other powers as are conferred upon councils of villages by section 1678 of the Revised Statutes of Ohio.

Contracts; how made.

SECTION 198. All contracts made by the council of any village shall be executed in the name of the village and signed on behalf of the village by the mayor and clerk, and shall be made subject to the provisions of sections 143 and 144 of this act, so far as the same are applicable.

2. EXECUTIVE.

Executive power vested in whom.

SECTION 199. The executive power and authority of villages shall be vested in a mayor, clerk, treasurer, marshal, street commissioner, and such other officers and departments as are created by this act. Provided, however, that the village council may, when it deems it necessary, provide legal counsel for the village, or any department or official thereof, for a period not exceeding two years, and provide compensation for the same.

Mayor: election, term, qualifications, powers and duties.

SECTION 200. The mayor shall be elected for a term of two years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation. He shall be the chief conservator of the peace within the corporation, and shall have such other powers and perform such other duties as are conferred and required in sections 1746, 1747, 1748, 1750 and 1751, of the Revised Statutes of Ohio; such as are provided in this act, and all other acts or parts of acts applying to all villages of the state, and not inconsistent herewith; provided, that the mayor shall pay over to the treasurer of the village, monthly, all fines, license fees, or other moneys of whatever character which may be collected by him, and shall receive such fees as are provided for by section 1843 of the Revised Statutes of Ohio. The mayor shall be the president of council and shall preside at all regular and special meetings thereof, but shall have no vote except in case of a tie. When the mayor is absent from the village, or is unable for any cause to perform his duties, the president pro tem. of council shall be acting mayor. In case of the death, resignation or removal of the mayor, the president pro tem. of council shall become the mayor and serve for the unexpired term, and until the successor is elected and qualified; and the vacancy thus created in council shall be filled as other vacancies therein, and council shall elect another president pro tem. from their own number, who shall have the same rights, powers and duties as his predecessor.

Vacancy in office of mayor; how filled.

Mayor's compensation.

The mayor in addition to the fees provided for in section 1843 of the Revised Statutes of Ohio, shall

receive such salary, payable quarterly out of the corporation treasury, as may be provided by ordinance, but the amount shall not be increased or diminished during his term of office.

Clerk: election, term and qualifications.

SECTION 201. The clerk shall be elected for a term of two years and shall serve until his successor is elected and qualified. He shall be an elector of the corporation.

Powers and duties.

The clerk shall attend all meetings of council and keep a record of its proceedings, and of all rules, by-laws, resolutions and ordinances passed or adopted, and the same shall be subject to the inspection of all persons interested; and in case of the absence of the clerk, council shall appoint one of its own members to perform his duties for the time.

The clerk shall perform all the duties of an auditor required in sections 133 and 134 of this act, and whenever the words, "city" or "auditor" appear in said sections, the words, "village" or "clerk" shall be substituted for this purpose. The clerk shall also have the powers and perform the duties conferred and required in sections 1756, 1757, 1758, 1759, 1761, 1762, and 1763, of the Revised Statutes of Ohio, and such other powers and duties as may now or hereafter be conferred or required by ordinance or by any law applying to all villages of the state.

Seal.

Council shall provide a seal for the clerk, in the center of which shall be the name of the village, and around the margin the words, "village clerk," an impression of which seal shall be affixed to all transcripts, orders, certificates or other papers requiring authentication.

Treasurer: election, term and qualification; powers and duties.

SECTION 202. The treasurer shall be elected for a term of two years, and shall serve until his successor is elected and qualified. He shall be an elector of the corporation. He shall have all the powers, perform all the duties, and be subject to all the provisions contained in section 135 of this act with respect to the office of city treasurer, and whenever the word "city" appears in said section the word "village" shall be substituted for this purpose.

Street commissioner: appointment, term, qualification, vacancies, duties.

SECTION 203. The street commissioner shall be appointed by the mayor and confirmed by council for a term of one year and shall serve until his successor is appointed and qualified. He shall be an elector of the corporation. Vacancies in the office of street commissioner shall be filled by the mayor for the unexpired term. The street commissioner, or an engineer when one is so provided for by council, under the direction of council, shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, landings, market houses, bridges, viaducts, sidewalks, sewers,

drains, ditches, culverts, ship channels, streams and water courses; the lighting, sprinkling and cleaning of all public places, and shall perform such other duties, consistent with the nature of his office, as council may require, and shall have such assistants as council may provide, who shall be employed by the street commissioner and shall serve for such time and at such compensation as may be fixed by council. The marshal in any village shall be eligible to appointment as street commissioner.

Provision for care, supervision and management of public institutions.

SECTION 204. The council shall provide by resolution or ordinance for the care, supervision, and management of all public parks, baths, libraries, market houses, crematories, sewage disposal plants, houses of refuge and correction, workhouses, infirmaries, hospitals, pest houses, or any of said institutions, now owned or maintained or which may hereafter be established by any village. Provided, that whenever the council may determine to plat any of the streets as authorized by law, the council shall provide for the platting thereof.

Board of trustees of public affairs: election, term, etc., of members.

SECTION 205. In all villages in which waterworks, electric light plants, artificial or natural gas plants or other similar utilities are situate at the time of the passage of this act, or which at such time are in process of construction, or when council orders waterworks, electric light plants, natural or artificial gas plants, or other similar public utility to be constructed or to be leased, or purchased from any individual company or corporation, council shall at such time establish a board of trustees of public affairs for such village, consisting of three members who shall be residents of the village and shall be each elected for a term of two years; provided, however, that in the event that the council shall in accordance with the provisions of this act, prior to the first election of municipal officers to be held under the provisions of this act, establish such board of trustees of public affairs, the mayor of such village shall appoint the members of such board subject to confirmation by the council, who shall hold their respective offices until such time as their successors shall have been elected in accordance with the provisions hereof, and such successors shall be elected at the next regular election of municipal officers held in such village. In case of any vacancy from death, resignation or otherwise, the same shall be filled for the unexpired term in like manner as the original appointments were made.

Vacancies.

Organization; powers and duties.

Said board shall organize by electing one of its number, president, and shall have authority to elect a clerk, who shall be known as the clerk of the board of trustees of public affairs. Said board shall have all the powers and perform all the duties that are provided to be performed by the trustees of waterworks in sections

2407, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434 and 2435 of the Revised Statutes of Ohio, and such other duties as may be prescribed by law or ordinance not inconsistent herewith.

POLICE AND FIRE DEPARTMENTS.

Marshal: election, term, qualification, powers and duties.

SECTION 206. The marshal shall be elected for a term of two years, shall serve until his successor is elected and qualified and shall be an elector of the corporation. He shall be the peace officer of the village, and the executive head, under the mayor, of any police force now or hereafter established. He shall have such powers and perform such duties as are conferred and required in sections 1848, 1849, 1850, 1851, 1852, 1853 and 1854, of the Revised Statutes of Ohio. Council may provide for such deputy marshals, policemen, night watchmen and special policemen as it may deem best, and fix their duties, periods of service, bonds and compensation, and they shall be appointed by the mayor, and confirmed by the council and may be removed by him for cause which shall be stated in writing to council. The marshal and the deputy marshals, policemen, or night watchman under him, shall have such powers as are now conferred by law upon police officers in all villages of the state, and such other powers, not inconsistent with the nature of their offices, as may be conferred by ordinance.

Deputy marshal, policemen, etc.: appointment, compensation, etc.

Fire department: organization, etc.

SECTION 207. In any village which now maintains, or may hereafter establish, a fire department, the head of said department shall be a fire chief, an elector of the corporation, who shall be appointed by the mayor, for a term of two years. Council may provide for the employment of such firemen as it may deem best, and fix their compensation, or for the services of volunteer firemen. All firemen, other than volunteers, shall be appointed by the mayor for terms of one year, by and with the advice and consent of council. In the management of the fire department and the prevention of fires, council shall have all the powers conferred by general law in sections 2470, 2471, 2472 and 2473, of the Revised Statutes of Ohio, and the fire chief shall have all the powers conferred upon a fire engineer in sections 2474 and 2475, of the Revised Statutes of Ohio.

3. JUDICIAL.

Police court.

SECTION 208. In every village where a police court is now established by law, whether by general acts or by acts designating the village by grade or class or otherwise said police court shall continue to exercise all powers and functions conferred by said general or special acts, and shall be known as the police court of the village in which the same now exists.

Jurisdiction thereof.

SECTION 209. The police court of each village as heretofore established and now existing shall have the jurisdiction conferred in any general or special act creating or governing the same, and the mayor as judge of said court and the clerk, assistant clerks and all other officers and employes of said court, shall be elected or appointed and shall continue to exercise their powers and duties in the manner provided in said existing laws.

How judge, clerk, etc., chosen.

Certain acts not repealed.

SECTIONS 210. All acts or parts of acts providing for such police courts, or regulating the procedure therein, including an act entitled, "An act to amend section 6565 of the Revised Statutes of Ohio," passed April 10, 1902, shall be and remain in full force and effect.

V.

MISCELLANEOUS PROVISIONS.

Municipalities created under this act shall succeed to all the rights and liabilities of original municipality.

SECTION 211. All rights and property which are vested in any municipal corporation under its former organization, shall be deemed vested in the same municipal corporation under the organization provided by this act; and no rights or liabilities, either in favor of or against such corporation, existing at the time of the taking effect of this act, and no suit, prosecution or proceeding shall be in any manner affected by such change, but the same shall stand or proceed as if no such change had been made; provided, that where a different remedy is given in this act, which can be made applicable to any rights existing at the time it goes into effect, such remedy shall be deemed cumulative to those already provided, and may be used accordingly. The boundaries of all municipal corporations as now established pursuant to any special or general acts shall be and remain as the same are now established, until such time as the same shall be changed in accordance with the provisions of this act.

New remedies are cumulative.

Municipal boundaries.

How words of enactment or repeal to be construed.

SECTION 212. Wherever existing statutes are expressly made to remain in effect by this act, whether by sectional numbers or by title, division and chapter, such statutes, with all other acts amendatory thereof or supplementary thereto, shall be of the same force and effect as if fully set forth and incorporated herein; wherever existing statutes are expressly repealed by this act, such repeal shall apply to all acts amendatory thereof or supplementary thereto; all sections, subsections, titles, divisions and chapters referred to in this act shall be those contained in the third edition of Bates' Annotated Ohio Statutes, as approved by the act of April 23, 1902, (95 O. L., 241), and this act shall be a part of title XII of said statutes.

Certain officers and employes shall continue to act until displaced under provisions of this act.

SECTION 213. All officers elected by the people or appointed by any authority, and all employes under any boards or officers in any municipal corporation, and all of-

ficers or employes in any educational, charitable, benevolent, penal or reformatory institution in any such corporation, now serving as such, shall remain in their respective offices and employments and continue to perform the several duties thereof under existing laws, and receive the compensation therefor until their successors are chosen or appointed and qualified or until removed by the proper authority in accordance with the provisions of this act.

By-laws, ordinances and resolutions heretofore passed or adopted shall remain in force.

SECTION 214. All by-laws, ordinances and resolutions heretofore lawfully passed or adopted by the council, board of legislation or other legislative body in any municipal corporation, and not inconsistent with this act, shall remain in force until duly altered or repealed.

Certain acts not to be construed as altered, amended or repealed.

SECTION 215. Nothing in this act shall be construed to alter, repeal or amend an act entitled, "An act to create a board of supervision in the erection simultaneously of public, municipal and county buildings," passed May 6, 1902, or sections 2435-1, 2435-2, 2435-3, 2435-4, 2435-5, 2435-6, 2435-7, 2435-9, 2435-10, 2435-11, 2435-12, 2435-13, 2435-14, 2435-15, 2435-16, 2435-17 and 2435-18 of the Revised Statutes of Ohio nor any other acts or parts of acts authorizing public improvements or the enlargement or extension of waterworks, in any municipality by a board of waterworks trustees heretofore established by law, having authority to make enlargements and extensions of waterworks and having such enlargements and extensions in progress of construction; but in all such cases said boards of supervision in the erection simultaneously of public municipal and county buildings, or commissioners of waterworks or boards of waterworks trustees shall continue in office and perform all of the functions and duties and exercise all of the powers now possessed by them until the completion of such improvements in progress of construction, and thereupon the works so completed shall be turned over to the appropriate authority of the municipality.

Board of supervision in the erection of public, municipal or county buildings; appointment of by board of public service.

SECTION 216. Whenever any city, or the county in which the city is located, has in contemplation, or in process of construction, buildings for public, municipal or county purposes, within the boundaries of such city, the directors of public service may provide for the employment of three persons, to be named by them, of whom at least two shall be architects, and who shall be employed at a salary not exceeding five thousand dollars ($5,000) per annum each, to be fixed by the directors of public service, and paid by the city from the general fund. Such

Powers of such board.

persons shall have, under the supervision of the directors of public service, control of the location of all public, municipal or county buildings, to be erected upon the ground acquired within the limits of the city, and of the size, height, style and general appearance of such buildings and all plans and specifications for the erection of the

buildings aforesaid shall be submitted for approval to the persons herein authorized to be employed and approved by them before they are adopted by the authorities engaged in the construction thereof; provided, further, that whenever any city has in contemplation, or in process of construction, or furnishing, a city hall, the directors of public service may provide for the employment of five citizens of said city, to be named by them, not more than three of whom shall belong to the same political party, who shall constitute a commission, under the supervision and direction of the directors of public service, for procuring the necessary land for the construction and furnishing of such city hall. Said commissioners shall have power, subject to the approval of the directors of public service, to acquire, in the name of the city, by purchase or appropriation, land for city hall purposes, and shall have power to employ architects, and approve plans and specifications.

Commission for the erection of city hall; appointment of by board of public service.

They shall make all contracts necessary for the construction and furnishing of such city hall, which contracts shall be in the name of the city, and shall be made after advertisement and bidding, as provided by law for the making of other municipal contracts, and shall be subject to the approval of the directors of public service. Such commissioners shall select from their number a president, and may appoint a clerk, and such other employes as may be necessary, and, subject to the approval of the directors of public service, fix their compensation, and shall keep a full record of their proceedings. Such commissioners shall each receive such sum, not exceeding five dollars ($5.00) each per meeting, as the directors of public service may fix, which compensation, however, shall not in any case exceed twelve hundred dollars ($1,200.00) per annum each, and the compensation, of such commissioners, and expenses shall be paid in like manner as the cost of such city hall.

Powers, duties, compensation, organization, etc.

Provided, further, that whenever any city has in contemplation or in process of construction, any market house or houses, or public hall in connection therewith, the directors of public service may provide for the employment of three citizens of such city, to be named by them, who shall constitute a commission, which shall have power, subject to the approval of the directors of public service, to contract, in the name of such city, for and supervise the building and furnishing of, any market house or houses or public hall in connection therewith, for such city, and, subject to the like approval, to acquire any lands that may be necessary for such purpose, either by purchase or appropriation in the name of said city in the manner provided by law. Such person so appointed shall receive such compensation, not exceeding five dollars ($5.00) each for each meeting attended by them, as the directors of public service may fix, which compensation, however, shall in no case exceed twelve hundred dollars ($1,200.00) per annum each.

Commission for erection, etc., of market houses, or public halls; appointment of by board of public service.

Compensation, etc.

Such commission may appoint a secretary and other necessary employes, and, subject to the approval of the directors of public service, fix their compensation, and adopt plans and specifications for erecting, completing and furnishing such market house or houses or public hall in connection therewith in any such city. The compensation of such commissioners and expenses, shall be paid in like manner as the cost of such buildings.

Persons appointed pursuant to certain acts heretofore passed shall continue to act until purposes of appointment are fulfilled.

Provided, further, that any person or persons heretofore appointed pursuant to the provisions of an act entitled, "An act to create a board of supervision in the erection simultaneously of public, municipal and county buildings," passed May 6, 1902 (95 O. L., 879), or of an act entitled "An act to authorize cities of the second grade of the first class to secure the necessary lands and to borrow money therefor, and for the purpose of building and erecting thereon a city hall and the furnishing of the same," passed April 19, 1898 (93 O. L., 549) and amended May 6, 1902 (95 O. L., 877), or an act entitled "An act relating to market houses in cities of the second grade of the first class," passed April 26, 1898 (93 O. L., 668), or by whatever authority for the purpose provided herein, shall continue to act for the purposes for which he or they were appointed, with the power herein granted and no others, until the completion of the improvement in connection with which they were appointed, and thereupon the work so completed shall be turned over to the proper authority of the municipality.

Provisions for the payment of bonds issued for construction of public buildings.

All rentals or other revenues received by any city from any public buildings for the construction of which bonds are outstanding, or from any other public building of the same character, shall be placed in a sinking fund, and shall be applicable to the payment of the principal and interest of any bonds issued by such city for the construction of such building, including the purchase of land, and any city may use and apply any money received from any gas or electric light company under any agreement heretofore or hereafter made, for the purpose of paying interest or principal of any bonds issued by such city for city hall purposes; and for the purpose of providing such further sums as may be necessary to pay the interest on any bonds for any of the purposes herein named, and the principal of the same at maturity, the council shall, in addition to the other levies authorized by law, levy annually a sufficient tax therefor on all property of the city subject to taxation, and such taxes shall be levied and collected as other taxes.

Contracts and bonds heretofore made or issued for purposes herein authorized declared valid obligations.

All contracts heretofore entered into by any city for the purposes herein specified and all bonds heretofore issued and sold by any city for any such purposes, shall be and remain valid, legal and binding obligations of such city, and all funds remaining from the sale of any such bonds shall be applied only for the purpose for which such

bonds were sold; and any such city shall have power to issue and sell such additional bonds as may be necessary, up to the limit named in said acts, or any of them, for the purposes herein named.

Additional bonds authorized.

SECTION 217. In any municipal corporation having a university supported in whole or in part by municipal taxation all the authority, powers and control vested in or belonging to said corporation with respect to the management of the estate, property and funds given, transferred, covenanted or pledged to said corporation in trust or otherwise for such university, as well as the government, conduct and control of such university shall be vested in and exercised by a board of directors consisting of nine electors of said municipal corporation, who shall be appointed by the mayor of such municipal corporation, three for a term of two years, three for a term of four years and three for a term of six years; and thereafter as the terms expire the mayor of such municipal corporation shall appoint three directors for a term of six years each and shall fill all vacancies in said board. Such board of directors shall be known as "The Board of Directors of ———— University" (filling out blank with the name of the university.) They shall serve without compensation and shall have all the powers and perform all the duties now and hereafter conferred or required by law in the government of said university, and the execution of any trust with respect thereto imposed upon the municipal corporation; and all acts or parts of acts not inconsistent herewith which govern such universities shall be and remain in full force and effect and sections 4095, 4096, 4097, 4099, 4100, 4101, 4102, 4103 and 4104 of the Revised Statutes of Ohio, as amended May 12, 1902, shall remain in full force and effect.

Administration, management, etc., of municipal university and property thereof to be under board of directors appointed by the mayor.

Powers and duties of such board.

SECTION 218. The custody, control and administration, together with the erection and equipment, of free public libraries established by municipal corporations, shall be vested in six trustees, not more than three of whom shall belong to the same political party, who shall be appointed by the mayor to serve without compensation for a term of four years and until their successors are appointed and qualified; provided, however, that in the first instance three of such trustees shall be appointed for a term of two years, and three thereof for a term of four years, and all vacancies shall be filled by like appointment for the unexpired term. Said trustees shall employ the librarians and necessary assistants, fix their compensation, adopt the necessary by-laws and regulations for the protection and government of the libraries and all property belonging thereto, and exercise all the powers and duties connected with and incident to the government, operation and maintenance thereof. It shall require four of said trustees to constitute a quorum and four votes to pass any measure or

Administration, erection, equipment, etc., of free public municipal libraries to be placed under board of trustees appointed by the mayor.

Powers and duties of such board.

authorize any act, which votes shall be taken by the yeas and nays and entered on the record of proceedings of said trustees, and in the making of contracts said trustees shall be governed by the provisions of law applicable thereto.

City council authorized to levy tax to compensate private company for maintaining free public library.

The council of each city shall have power to levy and collect a tax not exceeding one mill on each dollar of the taxable property of the municipality, annually, and to pay the same to a private corporation or association maintaining and furnishing a free public library for the benefit of the inhabitants of the municipality as and for compensation for the use and maintenance of the same, and without change or interference in the organization of such corporation or association, requiring the treasurer of such corporation or association to make an annual financial report, setting forth all the money and property which has come into its hands during the preceding year, and its disposition of the same, together with any recommendation as to its future necessities.

City council authorized to levy tax to compensate private company for maintaining free public hospital.

SECTION 219. The city council of each city shall have power to levy and collect a tax not exceeding one mill on each dollar of the taxable property of the municipality, annually, and to pay the same to a private corporation or association maintaining and furnishing a free public hospital for the benefit of the inhabitants of the municipality, as and for compensation for the use and maintenance of the same and without change or interference in the organization of such corporation or association, requiring the treasurer of such corporation or association to make an annual financial report, setting forth all the money and property which has come into its hands during the preceding year and its disposition of the same, together with any recommendation as to its future necessities.

Management and administration of property or funds to be used for park or hospital purposes.

SECTION 220. In any municipal corporation which has become or may hereafter become the owner or trustee of property for any park or hospital purposes, or of funds to be used in connection therewith, by deed of gift, devise or bequest, said property or funds shall be managed and administered in accordance with the provisions or conditions of said deed of gift, devise or bequest, provided that in all cases where such deed of gift, devise or bequest requires the investment, or change of investment of the principal of said property or funds, or any part thereof, to be made upon the approval of any advisory committee appointed by any court or judge, then such property or funds, secured by deed of gift, devise or bequest, for any such purposes, and any hospital or park property for the care or management of which in whole or in part, said fund is used, shall be managed, controlled and administered, the park funds and property by a board of park trustees, and the hospital funds and property by a board of hospital trustees, each board consisting of four resident electors of said municipal corporation who shall be appointed by the sinking fund

In certain cases such property or fund to be managed, administered, etc., by board of trustees to be appointed by sinking fund trustees.

trustees of said municipal corporation and shall serve without compensation for the term of four years and until their successors are appointed and qualified. Said trustees shall be appointed in the first instance to serve for one, two, three and four years respectively, and thereafter their successors shall be appointed one each year to serve for the term of four years, provided, however, that of the four trustees so appointed not more than two shall be of the same political party. In case of vacancy by death, resignation or otherwise in such board of trustees, the same shall be filled in like manner for the remainder of the term. Said board of trustees shall have the right to apply, control and invest and reinvest the funds coming or arising from such gift, devise or bequest according to the terms and conditions on which acquired; and shall respectively be the successors of any board or officers now having control or management of any such property or funds herein described, and said funds or other property then held and controlled by any theretofore existing park or hospital board, and the duties vested in or imposed upon such boards or officers shall be transferred to the trustees herein provided. Such park board herein provided for shall be governed by the provisions of sections 2515-39, 2515-40, 2515-41, 2515-42, 2515-43, 2515-44, 2515-45, 2515-45*e*, 2515-45*f*, 2515-45*g*, 2515-45*h*, 2515-45*i*, 2515-45*j* and 2515-45*k* of the Revised Statutes of Ohio, and such hospital board herein provided for shall be governed by the provisions of sections 2167-9, 2167-10, 2167-11, 2167-12, 2167-13, 2167-14, 2167-15, 2167-16, 2167-17, 2167-18, 2167-19, 2167-20, and 2167-21, of the Revised Statutes of Ohio.

VI.

ELECTION, APPOINTMENT AND REMOVAL OF OFFICERS.

Election of municipal officers.

SECTION 222. The first election under this act shall be held on the first Monday in April, 1903, and all elective officers provided for in this act shall be elected at that time and the terms of all existing elective officers of municipalities except as otherwise provided in this act shall cease and determine on the first Monday in May, 1903, and their offices shall be abolished upon the qualification of the officers provided for in this act, and every year thereafter on the first Monday in April an election shall be held in each municipal corporation and such election shall be conducted, canvassed and the result certified in the manner provided by law with respect to municipal elections. The officers chosen at the first election held hereunder and at all subsequent elections shall begin their respective terms on the first Monday in May succeeding said election.

Beginning of term.

Appointment of municipal officers.

SECTION 223. The directors of public safety, directors of the university, street commissioner or any board or of-

ficer whose appointment is required by this act shall be appointed not earlier than the second Monday in May and not later than the first Monday in June, 1903, and subsequently as the terms of said boards or officers expire said appointments shall be made not earlier than the second Monday in May, and not later than the first Monday in June, except that vacancies may be filled as provided for in this act. All appointments authorized by this act or by any ordinance shall be made by the mayor unless otherwise specifically provided in this act.

Oaths and bonds.

SECTION 224. With respect to oaths of office and official bonds and the effect of the failure to take or give the same, sections 1737, 1738, 1739, 1740, 1741, 1742, and 1743, of the Revised Statutes of Ohio, where not inconsistent with this act, shall be and remain in full force and effect; and where the words "city clerk" appear in said sections they shall be construed to mean, in a city, the auditor, and in a village, the clerk.

"City clerk" meaning of words.

Impeachment of head of department or officer; procedure.

SECTION 225. It is hereby made the duty of the mayor to have a general supervision over each department and the officers provided for in this act, and where the mayor has reason to believe that the head of any department or officer provided for in this act has been guilty in the performance of his official duty of bribery, misfeasance, malfeasance or non-feasance, he shall immediately file with the council written charges against said head of department or officer, setting forth in detail a statement of such alleged bribery, misfeasance, malfeasance or non-feasance, and he shall serve or cause to be served at the time of the filing of said charges or as soon thereafter as possible, a true copy of such charges with the head of the department or officer against whom said charges are made, and may serve the same in person or by leaving a copy of said charges at the office of the head of such department or officer and make due return to council of such service as is provided for the return of the service of summons in a civil action. Said charges when so filed with council shall be for hearing at the next regular meeting of council, unless council shall extend the time for the hearing of the same, which shall only be done on the application of the accused. The accused shall have the right to appear in person and by counsel and examine all witnesses and answer all charges against him; and the judgment or action of council shall be final provided that it shall require the votes of two-thirds of all members elected to council to remove such officer. Pending any of said proceedings such head of department or officer may be suspended by a majority vote of all members elected to council, but such suspension shall not be for a longer period than fifteen days unless the hearing of said charges shall be extended upon the application of the accused, and in such event the suspension shall not exceed a period of thirty days.

Removal of mayor by governor of state.

SECTION 226. In case of misconduct in office, or bribery, or any gross neglect of duty, gross immorality or habitual drunkenness of any mayor, the governor of the state shall remove him from office, upon notice and after affording to the said mayor, a full and fair opportunity to be heard in his defense. The proceedings for his removal shall be commenced by the governor putting on file in his office, a written statement of the alleged causes for the mayor's removal, and he shall cause a copy of said statement to be served upon the mayor not less than ten days before the hearing of the matter. The proceedings had by the governor upon such removal shall be public and a full detailed statement of the reasons of such removal shall be filed by the governor in the office of the secretary of state and shall be made a matter of public record therein. The decision of the governor, when so filed, with the reasons therefor, shall be final and pending such investigation by the governor, he may suspend the mayor for a period of thirty days.

Council shall determine number, compensation and amount of bond of officers, clerks and employes in any department of city government. Exception.

SECTION 227. Except in the department of public service, council shall by ordinance or resolution, except as otherwise provided in this act, determine the number of officers, clerks and employes in any department of the city government, and shall fix by ordinance or resolution their respective salaries and compensation and the amount of bond to be given for each officer, clerk or employe in any department of the city government, if any be required, and said bonds shall be made by such officer, clerk or employe with surety subject to the approval of the mayor of said city.

Vacancies; how filled.

SECTION 228. In case of the death, removal or disability of any officer or director in any department of any municipality, the mayor of such city shall fill the vacancy by appointment in the manner provided in this act, and said appointment shall continue until the next municipal election, or until such disability is removed.

Declaration of unconstitutionality of one section of this act shall not affect validity of any other section not so held invalid.

SECTION 229. In the event that any section or part of a section included within the provisions of this act shall be held by any court to be invalid or unconstitutional, such decision shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this act, except the section or part of a section so held invalid or unconstitutional by such court.

Election and term of police judge and clerk.

SECTION 230. Except where otherwise provided in the acts creating police courts and fixing the terms of judges and clerks thereof, which acts are herein made to remain in full force and effect, such judges and clerks shall be elected in each municipality where such officers are now provided for by law, at the first election held under this act on the first Monday in April, 1903, for terms of three years, and thereafter their successors shall be elected

Vacancies in office of; how filled.

for a like term; and except as otherwise provided in the acts creating said courts, vacancies in the office of judge of the police court shall be filled by the governor for the unexpired term, and vacancies in the office of clerk of the police court shall be filled by the mayor for the unexpired term.

When this act shall take effect.

SECTION 231. For the purpose of carrying into effect the powers and duties conferred and imposed upon present councils, boards of legislation, or other legislative bodies, by the provisions of this act, and for the purpose of conducting the first election to be held in every municipality hereunder, and of preparing for the change in the organization of municipalities herein provided for, this act shall take effect from and after the fifteenth day of November, 1902; and for all other purposes this act, and every portion of the same, including the repeal of existing laws, shall take effect on the first Monday in May, 1903, and the following sections of the Revised Statutes of Ohio are hereby repealed:

Repeals.

1537-1, 1538, 1539, 1540, 1541, 1542, 1543, 1545, 1545-1, 1545-2, 1545-3, 1545-4, 1545-5, 1545-6, 1545-7, 1545-8, 1545-9, 1545-10, 1545-11, 1545-12, 1545-13, 1545-14, 1545-15, 1545-16, 1545-17, 1545-18, 1545-19, 1545-20, 1545-21, 1545-22, 1545-23, 1545-24, 1545-25, 1545-26, 1545-27, 1545-28, 1545-29, 1545-30, 1545-31, 1545-32, 1545-33, 1545-34, 1545-35, 1545-36, 1545-37, 1545-38, 1545-39, 1545-40, 1545-41, 1545-42, 1545-43, 1545-43*a*, 1545-43*b*, 1545-44, 1545-45, 1545-46, 1545-47, 1545-48, 1545-49, 1545-50, 1545-51, 1545-52, 1545-53, 1545-54, 1545-55, 1545-56, 1545-57, 1545-58, 1545-59, 1545-60, 1545-61, 1545-62, 1545-63, 1545-64, 1545-65, 1545-66, 1545-67, 1545-68, 1545-69, 1545-70, 1545-71, 1545-72, 1545-73, 1545-74, 1545-75, 1545-76, 1545-77, 1545-78, 1545-79, 1545-80, 1545-81, 1545-82, 1545-83, 1545-84, 1545-85, 1545-86, 1545-87, 1545-88, 1545-88*a*, 1545-88*b*, 1545-89, 1545-90, 1545-91, 1545-92, 1545-93, 1545-94, 1545-95, 1545-96, 1545-97, 1545-98, 1545-99, 1545-100, 1545-101, 1545-102, 1545-103, 1545-104, 1545-105, 1545-106, 1545-107, 1545-108, 1545-109, 1545-110, 1545-111, 1545-112, 1545-113, 1545-114, 1545-115, 1545-116, 1545-117, 1545-118, 1545-119, 1545-120, 1545-121, 1545-122, 1545-123, 1545-124, 1545-125, 1545-126, 1545-127, 1545-128, 1545-129, 1545-130, 1545-131, 1545-132, 1545-133, 1545-134, 1545-135, 1545-136, 1545-137, 1545-138, 1545-139, 1545-140, 1545-141, 1545-142, 1545-142*a*, 1545-143, 1545-144, 1545-145, 1545-146, 1545-147, 1545-148, 1545-149, 1545-150, 1545-151, 1545-152, 1545-153, 1545-154, 1545-155, 1545-156, 1545-157, 1545-158, 1545-159, 1545-160, 1545-161, 1545-162, 1545-163, 1545-164, 1545-165, 1545-165*a*, 1545-165*b*, 1545-165*c*, 1545-165*d*, 1545-165*e*, 1545-165*f*, 1545-165*g*, 1545-165*h*, 1545-165*i*, 1545-166, 1545-167, 1545-168, 1545-169, 1545-170, 1545-171, 1545-172, 1545-173, 1545-174, 1545-175, 1545-176, 1545-177, 1545-178, 1545-179, 1545-180, 1545-181, 1545-182, 1545-183,

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Repeals.

And the following acts are repealed:

An act entitled, "An act to supplement section 2729*a* of the Revised Statutes, passed January 29, 1885," passed February 4, 1902 (95 O. L. pp. 5-6).

An act entitled, "An act to supplement section 1692 of the Revised Statutes of Ohio by adding thereto, subsection 41," passed February 20, 1902 (95 O. L. pp. 16-17).

An act entitled, "An act to amend section 2267 of the Revised Statutes of Ohio," passed March 4, 1902 (95 O. L. pp. 35-36).

An act entitled, "An act to amend section 2397 of the Revised Statutes of Ohio, and to supplement said section by adding thereto section 2397*a*," passed March 25, 1902 (95 O. L. p. 67).

An act entitled, "An act to authorize the council of any city of the fourth grade, second class, which at the last federal census had a population exceeding 16,000, to issue and sell bonds to enlarge and extend waterworks," passed March 26, 1902 (95 O. L. pp. 68-69).

An act entitled, "An act to further supplement section 1692 of the Revised Statutes of Ohio," passed April 1, 1902 (95 O. L. p. 78).

An act entitled, "An act to amend section 2440 of the Revised Statutes of Ohio," passed April 2, 1902 (95 O. L. pp. 83-84).

An act entitled, "An act to amend section 2232 of the Revised Statutes of Ohio," passed April 14, 1902 (95 O. L. 131).

An act entitled, "An act to supplement section 2476-27 of the Revised Statutes of Ohio, passed April 15, 1902 (95 O. L. pp. 143-144.)

An act entitled, "An act to amend section 1707*d*-32 of the Revised Statutes of Ohio as amended March 11, 1898 (Vol. 93 O. L., page 44)" passed April 15, 1902 (95 O. L. p. 148).

An act entitled, "An act to amend, supplement and repeal certain sections of subdivision 3, of chapter 5, division 5, title 12, of the Revised Statutes of Ohio," passed April 17, 1902 (95 O. L. pp. 203, 204, 205, 206).

An act entitled, "An act to amend section 1708*a* of the Revised Statutes of Ohio," passed April 17, 1902 (95 O. L. pp. 206-207).

An act entitled, "An act to amend section 1 of an act entitled, 'An act to provide for the construction of sewers in cities of the third grade of the second class, having a board of public affairs,' passed April 15, 1889 (O. L. Vol. 86, p. 360), as amended April 18, 1896 (O. L. Vol. 92, p. 197)," passed April 23, 1902 (95 O. L. p. 236).

An act entitled, "An act to amend section 2406-95 of the Revised Statutes," passed April 23, 1902 (95 O. L. 239).

Repeals.

An act entitled, "An act to supplement section 2709 of the Revised Statutes of Ohio, with sectional numbering 2709-1," passed April 23, 1902 (95 O. L. pp. 242-243).

An act entitled, "An act to amend section 1709*a* of the Revised Statutes of Ohio," passed April 23, 1902 (95 O. L. pp. 247-248).

An act entitled, "An act to amend supplemental section 2823*a* of the Revised Statutes of Ohio as passed April 17, 1891 (88 O. L. 318), relating to the levy of taxes by county commissioners in counties containing cities of the first grade, second class, and providing that such commissioners shall apportion such levy to separate funds," passed April 23, 1902 (95 O. L. p. 255).

An act entitled, "An act to supplement section 2701 of the Revised Statutes of Ohio," passed April 23, 1902 (95 O. L., p, 256).

An act entitled, "An act to supplement section 2167-3 of the Revised Statutes of Ohio," passed April 23, 1902 (95 O. L. p. 259).

An act entitled, "An act to supplement section 2505*c* of the Revised Statutes of Ohio," passed April 25, 1902 (95 O. L., p. 264).

An act entitled, "An act to amend sections 2476-17 and 2476-18 of the Revised Statutes of Ohio," passed April 25, 1902 (95 O. L., pp. 265-266).

An act entitled, "An act to further supplement sections 1545-89, to 1545-165 inclusive of the Revised Statutes of Ohio," passed April 25, 1902 (95 O. L., pp. 266-267-268-269-270).

An act entitled, "An act to authorize cities of the second class, fourth grade, to issue bonds for cemetery purposes," passed April 23, 1902 (95 O. L., 244).

An act entitled, "An act to supplement section 1692 of the Revised Statutes of Ohio," passed April 25, 1902 (95 O. L., 274).

An act entitled, "An act to provide for the merging, maintenance and government of public libraries in cities of the second class, fourth grade," passed April 29, 1902 (95 O. L., pp. 317-318).

An act entitled, "An act to supplement section 2667 of the Revised Statutes of Ohio," passed April 30, 1902 (95 O. L., p. 332).

An act entitled, "An act to amend section 1545-276 of the Revised Statutes of Ohio," passed May 2, 1902 (95 O. L., pp. 339-340).

An act entitled, "An act to amend section 2100*a* of the Revised Statutes of Ohio," passed May 2, 1902 (95 O. L., 349).

An act entitled, "An act to amend section 1699-3 of the Revised Statutes of Ohio," passed May 2, 1902 (95 O. L., 356).

Repeals.

An act entitled, "An act to amend section 1831 of the Revised Statutes of Ohio," passed May 2, 1902 (95 O. L., pp. 353-354).

An act entitled, "An act to amend section 1895 of the Revised Statutes of Ohio," passed May 6, 1902 (95 O. L., p. 363).

An act entitled, "An act to amend section (1545-282) (1) Sec. 15, relative to rate of taxation in certain cities," passed May 6, 1902 (95 O. L., pp. 367-368).

An act entitled, "An act to supplement sections 1655 and 1708 of the Revised Statutes of Ohio," passed May 6, 1902. (95 O. L., pp. 380-381-382-383-384-385-386-387-388).

An act entitled, "An act to supplement section 1569 of the Revised Statutes," passed May 7, 1902 (95 O. L., pp. 411-412).

An act entitled, "An act to further supplement section 2334 of the Revised Statutes of Ohio," passed May 7, 1902 (95 O. L., p. 416).

An act entitled, "An act to authorize cities to issue bonds for park purposes," passed May 7. 1902 (95 O. L., 438).

An act entitled, "An act to amend section 1655*a* of the Revised Statutes of Ohio," passed May 9, 1902 (95 O. L., pp 457-458-459).

An act entitled, "An act to further supplement section 1709 of the Revised Statutes of Ohio," passed May 9, 1902 (95 O. L., 447).

An act entitled, "An act to supplement section 2408 of the Revised Statutes of Ohio with supplementary section 2408*a*," passed May 10, 1902 (95 O. L., pp. 485-486).

An act entitled, "An act to amend section 2689*a* of the Revised Statutes of the state of Ohio," passed May 10, 1902 (95 O. L., pp. 508-509-510).

An act entitled, "An act to amend section 1692*f* (2) of the Revised Statutes of Ohio," passed May 10, 1902 (95 O. L., pp. 526-527).

An act entitled, "An act to amend section 1939 of the Revised Statutes of Ohio," passed May 10, 1902 (95 O. L., p. 532).

An act entitled, "An act to amend section 1788 of the Revised Statutes of Ohio," passed May 10, 1902 (95 O. L., p. 535).

An act entitled, "An act to further supplement section 1692 of the Revised Statutes of Ohio," passed May 10, 1902 (95 O. L., p 561).

An act entitled, "An act to amend section 2408 of the Revised Statutes as amended April 11, 1890 (— Ohio L. 172)," passed May 12, 1902 (95 O. L., pp. 562-563).

An act entitled, "An act to amend section 2683 of the Revised Statutes of the state of Ohio, to authorize tax

Repeals.

levies for special purposes," passed May 12, 1902 (95 O. L., 570).

An act entitled, "An act to amend section 1545-276 of the Revised Statutes of Ohio as amended May 2, 1902," passed May 12, 1902 (95 O. L., pp. 589-590).

An act entitled, "An act to amend section 1946 of the Revised Statutes of Ohio," passed May 12, 1902 (95 O. L. pp. 594, 595).

An act entitled, "An act to further supplement section 2330 of the Revised Statutes of Ohio," passed May 12, 1902 (95 O. L., 604).

An act entitled, "An act to further supplement section 1692 of the Revised Statutes of Ohio," passed May 12, 1902 (95 O. L., 561).

An act entitled, "An act to further supplement section 2330 of the Revised Statutes of Ohio," passed May 12, 1902 (95 O. L., 604).

An act entitled, "An act to provide for certain contracts in regard to bridges between cities of the second grade of the second class and street railroad purposes," passed April 25, 1902 (95 O. L., p. 806).

An act entitled, "An act to provide for bridge bonds for cities of the second grade of the second class, passed March 12, 1902 (95 O. L., pages 696, 697 and 698).

This act shall supersede all acts and parts of acts, not herein expressly repealed, which are inconsistent herewith.

W. S. McKINNON,
Speaker of the House of Representatives.

H. L. GORDON,
President of the Senate.

Passed October 22, 1902. 15 G

LOCAL LAWS.

[House Bill No. 44.]

AN ACT

To amend section 4 of an act entitled "An act to establish a special school district in the townships of Marlboro, Stark county, and Randolph, Portage county, Ohio, passed April 14, 1900, O. L. Vol. 94, page 638–639).

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4 of an act entitled "An act to establish a special school district in the townships of Marlboro, Stark county, and Randolph, Portage county, Ohio, be amended to read as follows:

Sec. 4. The board of education of said special school district shall provide for the conveyance to and from said school of all pupils who reside at a distance of one mile or more from said school, the cost of which shall be paid out of the contingent fund of said district.

SECTION 2. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 1 L

[Senate Bill No. 20.]

AN ACT

To divide Athens and Waterloo townships, Athens county, Ohio, so as to make another election precinct.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That the townships of Athens and Waterloo, in Athens county, Ohio, be divided so as to make another election precinct as follows: To consist of the territory embraced within the boundaries of the Dalton [Daleton] special school district, as the same appears of record upon the records in [said] Athens county; that said election precinct shall be known as the Luhrig precinct; and the voting [place] precinct shall be at Luhrig.

SECTION 2. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 2 L

[Senate Bill No. 9.]

AN ACT

For the relief of W. C. Bergundthal, ex-treasurer of Belmont county, Ohio.

WHEREAS, On the 25th day of February, 1902, W. C. Bergundthal was the treasurer of Belmont county, Ohio, and as such, had on deposit with and in the First National Bank of Belmont, Ohio, the sum of nine thousand, two hundred and seventeen dollars and twelve cents of the money of said county.

WHEREAS, On the 25th day of February, 1902, the doors of [the] said bank were closed by order of the comptroller of the currency of the United States, who caused an examination of the affairs of said bank to be made by a legally appointed examiner of national banking institutions under the laws of the United States, and after making said examination said examiner made a report thereof to said comptroller, who, thereupon and on or about the 14th day of April, 1902, declared said bank to be insolvent, and appointed a receiver to wind up the affairs of said bank, and the said bank was not opened from the time the same was closed by order of said comptroller until the appointment and qualification of said receiver.

WHEREAS, The receiver of said bank will not be able to realize on the assets thereof coming into his hands a sufficient amount to pay [the] liabilities of said bank in full;

WHEREAS, Said receiver of said bank has already declared and paid a dividend of twenty-five per cent., and has declared another dividend of twenty-five per cent. payable on or about October 1st, 1902, upon the liabilities of said bank.

WHEREAS, The deficiency will not amount to more than fifteen per cent. and probably not more than ten per cent.; therefore,

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That W. C. Bergundthal, late treasurer of Belmont county, Ohio, and the sureties on his official bond as such treasurer, be and the same are hereby relieved from the payment to the said county of whatever part of said sum of $9217.12 that shall remain unpaid by the receiver of the First National Bank of Belmont, Ohio, upon the settlement of its affairs.

SECTION 2. That this act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 22, 1902.

3 L

[Senate Bill No. 18.]

AN ACT

To provide for an official stenographer for Pike county, Ohio.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That the court of common pleas of Pike county, Ohio, or the judge thereof in vacation, may within twenty (20) days after this act takes effect, appoint an official stenographer for the court of common pleas of said county, who shall be a resident of said county, and which stenographer when so appointed and qualified, shall be ex officio the official stenographer of the circuit and probate courts of said county. Immediately upon such appointment said court or the judge thereof in vacation, shall cause an entry thereof to be made and entered upon the journal of said court.

SECTION 2. Such stenographer shall hold his or her office for the [term] of three (3) years from and after the date of appointment, and until his or her successor be appointed and qualified, unless sooner removed by the court or judge appointing him or her, for neglect of duty, misconduct, or incompetency. Such stenographer shall, before entering upon the duties of said office take an oath that he or she will faithfully and impartially discharge the duties of said office.

SECTION 3. Such stenographer so appointed shall receive a salary of three hundred dollars ($300.00) per annum payable quarterly, out of the general fund of the county treasury, which salary shall be in lieu of all per diem fees in the circuit, common pleas, and probate courts of said county; and it shall be the duty of the auditor of said county to issue his warrant on the treasurer of said county for the payment of said salary, as herein provided as to time, out of the general fund of said county, upon presentation to him or a filing thereof in his office, of a certified copy of the journal entry of the appointment of such stenographer.

SECTION 4. It shall be the duty of such official stenographer, when demanded by either party to a case actually tried, to make or cause to be made, accurate stenographic notes of the testimony of the witnesses, the charge of the court (when not in writing), all opinions rendered, and all such oral proceedings as the parties may request and the court direct, in all cases actually tried in the circuit, common pleas, and probate courts of said county; the shorthand notes so taken to be the property of said county, and to be carefully preserved in the office of such stenographer; provided, that if sessions of the circuit, common pleas or probate courts of said county are holden on the same day, said official stenographer shall give preference to the common pleas court, unless excused by the judge thereof. It shall also be the duty of such stenographer to make, or cause to be made, at the request of either party, their attorneys or the court, an accurate transcript into typewritten longhand of the notes so taken in any case, or such portion thereof as may be requested, to be paid for forthwith by the party or parties ordering the same; but all transcripts ordered by the prosecuting attorney or defendant when counsel is assigned to defend in a criminal case, or by the court for its own use, shall be paid for out of the treasury of said county, and the clerk of the proper court shall certify the amount of such transcripts with certificate, shall be

a sufficient voucher to the auditor of said county, and upon which he shall draw his warrant upon the county treasury in favor of such stenographer; the cost of such transcripts, ordered by the prosecuting attorney or defendant, in criminal cases or by the court for its own use, if used on appeal or error by either party, shall be taxed as costs in the case, and collected as other costs, and when so collected, to be by the clerk of the proper court, paid quarterly into the treasury of said county and credited to the general fund. But such stenographer shall, when requested by the judge or judges, of either of the aforenamed courts and without extra charge or compensation, take from the dictation of such judge or judges such shorthand notes as may be required in preparing opinions, or charges to juries, and furnish transcripts of the same.

SECTION 5. Such official stenographer shall receive for making such transcripts into typewritten longhand eight cents (8) per folio of one hundred (100) words; and when more than one such transcript shall be ordered at the same time by the same party, the fee for making such additional transcript shall be one-third (1-3) the fee allowed for the first copy, and shall be paid for in the same manner.

SECTION 6. In every case reported in the courts of said county, there shall be taxed for each day's service of such stenographer a fee of three dollars ($3.00) to be collected as other costs in the case, and when so collected to be by the clerk of the proper court paid quarterly into the treasury of said county, and credited to the general fund; provided, that no fee less than three dollars ($3.00) to be taxed in any case reported.

SECTION 7. Said official stenographer shall be furnished, by the board of county commissioners with a suitable room in the court house of said county, and all stationery supplies and equipments necessary for the use of such stenographer in the proper discharge of his or her duties and for the preservation of his or her stenographic notes.

SECTION 8. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 22, 1902.

4 L

[Senate Bill No. 13.]

AN ACT

To authorize the board of education of the city of Zanesville, Muskingum county, Ohio, to issue bonds for the purposes therein named.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That the board of education of the city of Zanesville, in the county of Muskingum, and state of Ohio, be and it is hereby authorized and empowered to issue the bonds of said board, not to exceed in amount the sum of twenty-five thousand dollars, bearing a rate of inter-

est not to exceed four per cent. per annum, payable semiannually, and dispose of the same at public or private sale at not less than their par value; the proceeds from the sale of said bonds to be applied to the purchase of schoolhouse sites and the erection of school buildings by said board. Said bonds shall be payable at such time or times as said board may determine, not exceeding twenty-five [twenty-five] years from the respective dates thereof, and shall be issued in denominations of not less than five-hundred nor more than one thousand dollars each, signed by the president and attested by the clerk of said board.

SECTION 2. That for the purpose of redeeming the bonds that may be issued under authority of the preceding section, and paying the interest thereon as the same shall become due, the said board of education is hereby authorized to levy annually a tax sufficient therefor on all [the] taxable property in said city school district, in addition to the tax levy otherwise authorized by law for school purposes therein.

SECTION 3. This act shall take effect and be in force from and after its passage.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902.

5 L

JOINT RESOLUTIONS.

[Senate Joint Resolution No. 8.]

JOINT RESOLUTION

Providing for adjournment of the general assembly, on Thursday, September 18, 1902, until Tuesday, September 23, 1902.

BE IT RESOLVED That when the seventy-fifth general assembly adjourns on Thursday September 18 it will be to meet on Tuesday September 23rd, at 10 o'clock A. M.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted September 30th, 1902. 1

[House Joint Resolution No. 8.]

JOINT RESOLUTION

To authorize the publication of additional copies of Howe's Historical Collections of Ohio.

Be it resolved by the General Assembly of the State of Ohio:

That the commissioners of public printing be and they are hereby authorized and directed to cause to be printed and bound four thousand sets of Howe's Historical Collections of Ohio, in addition to the number of sets thereof authorized by House Joint Resolution, No. 20, adopted May 6, 1902.

That such additional sets of said history be printed, bound and distributed as provided in said Joint Resolution No. 20; that the cost thereof be paid from money heretofore appropriated by act of the general assembly, passed May 12, 1902.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 7, 1902. 2

[House Joint Resolution No. 10.]

JOINT RESOLUTION

An endorsement of congressional action, looking to the improvement of our internal water ways, especially the Ohio and Mississippi rivers.

WHEREAS, The Congress of the United States, appreciating the vast importance of our internal water ways, as a necessary factor in the achievement of our manifest destiny: the industrial empire of the world, have already taken the preliminary steps to wonderfully improve the Ohio and Mississippi rivers as commercial channels of the United States; and

WHEREAS, Such legislation on the part of Congress has met with the unqualified approval of the citizens of the United States generally; and

WHEREAS, The inevitable result of such improvement of our internal water ways must be of the greatest importance and benefit to the state of Ohio, in connection with the United States at large; therefore,

Be it resolved by the General Assembly of the State of Ohio:

That we most sincerely commend the wisdom of the said legislation by the Congress of the United States and urge upon Congress the imperative necessity for the completion of the improvements contemplated as soon as compatible with their nature and importance, and be it further resolved that copies of these resolutions shall be sent to the senate and house of representatives of the United States.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Passed October 7, 1902. 3

[House Joint Resolution No. 3.]

JOINT RESOLUTION

Providing for printing additional copies of H. B. No. 5, and S. B. No. 1.

Be it resolved by the General Assembly of the State of Ohio:

That there be printed three thousand additional copies of House Bill No. 5, for the use of the house, and one thousand copies of Senate Bill No. 1, for the use of the senate.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted October 17, 1902. 4
8

[House Joint Resolution No. 2.]

JOINT RESOLUTION

To adjourn Friday Aug. 29th at 11 a. m. to Thursday Sept. 4th at 4 p. m.

Be it resolved by the General Assembly of the State of Ohio:

That the general assembly adjourn on Friday August 29th at 11 A. M., until Thursday September 4th, at 4 P. M.

W. S. McKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted October 17, 1902. 5

[House Joint Resolution No. 4.]

JOINT RESOLUTION

To print additional copies of House Bill No. 9 and 10.

Be it resolved by the General Assembly of the State of Ohio:

That 3000 copies each of House Bills No. 9 and 10 be printed for the use of the members of the house of representatives, and 1000 each for the use of the members of the senate.

W. S. McKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted October 17, 1902. 6

[Senate Joint Resolution No. 12.]

JOINT RESOLUTION

Relative to reassignment of rooms in the state house.

WHEREAS, The general assembly, at its last session, assigned the room known as the old supreme court room as a memorial hall in which the flags and war relics now in the state house shall be deposited, and,

WHEREAS, No department has been assigned the two rooms in which have been kept such flags and relics, and,

WHEREAS, The Ohio State Library has been and is now in serious need of additional room, therefore,

Be it resolved by the General Assembly of the State of Ohio:

That the two rooms on the third floor above and on either side of the west entrance of the state house, in which have been deposited battle flags and other relics, are hereby set aside and assigned to the Ohio State Library.

RESOLVED That the adjutant general is authorized and directed to carry out the provision of the foregoing resolution as promptly as possible after the adjournment of this extraordinary session of the general assembly, and to vacate the two rooms for the use of the Ohio State Library.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted October 22, 1902. 7

[Senate Joint Resolution No. 15.]

JOINT RESOLUTION

Relative to sine die adjournment of the general assembly.

Be it resolved by the General Assembly of Ohio:

That the seventy-fifth general assembly of the state of Ohio, now in extraordinary session, shall adjourn without day on Wednesday, October 22nd, at 10 o'clock A. M.

W. S. MCKINNON,
Speaker of the House of Representatives.
H. L. GORDON,
President of the Senate.

Adopted October 22, 1902. 8

[House Joint Resolution No. 9.]

JOINT RESOLUTION.

Petitioning congress to reinstate Colonel William Welsh to his former rank in the United States army.

WHEREAS, Col. Wm. Welsh, who was the first soldier to enlist from Knox county, Ohio, served continuously in the army of the United States from April 16,1861,until January 1,1871, and was deservedly[promoted] through all the grades from corporal to the rank of lieutenant-colonel of U. S. Volunteers, for personal bravery and gallantry on many fields of battle, and for general efficiency and meritorious service as a soldier and officer; and

WHEREAS, He was at the time of his discharge an active and efficient officer, being captain of "K" Company 25th U. S. Infantry, engaged in the active discharge of his duty as such officer, and against whom there was no just cause of complaint; and

WHEREAS, A careful inspection of the records, and investigation of the circumstances of his discharge, show that the same was unwarranted, and not occasioned by any requirement of the act of July 15, 1870, Statutes of the United States of America, nor from any lack of ability, or efficiency on the part of Col. Welsh, as a soldier or officer; and

WHEREAS, It is believed, a great injustice was unnecessarily done a brave and competent officer, by reason of a mistake of an inspecting officer, in the discharge of the said Col. Welsh at that time; and

WHEREAS, The War Department has no record of complaint against Col. Welsh and many who were mustered [out] at the same time as he was have been at various times restored to rank and retired on occasion; and

WHEREAS, From depletion of the original list of officers discharged at the same time, by restoration and death, only two captains and five lieutenants remain, of his class, who have not been thus restored; and in order that justice may be done Col. Welsh even at this late date, therefore,

Be it resolved by the General Assembly of the State of Ohio:

That we earnestly recommend and urge that the members of Congress from Ohio, use every honorable effort to procure the reinstatement of Col. William Welsh to the United States army, without loss of rank; that he may be retired therefrom with merited honor, as a full colonel; the rank he would have attained, had he been permitted to remain until he had reached the age limit for retirement therefrom.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Adopted October 22, 1902.

9

[House Joint Resolution No. 12.]

JOINT RESOLUTION

To provide for a conference committee.

RESOLVED, By the general assembly in extraordinary session that there be appointed a committee of conference consisting of five members on the part of the house and five members on the part of the senate, to adjust the differences between the two houses on amended Senate Bill No. 1.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Adopted October 22, 1902.

10

[House Joint Resolution No. 14.]

A RESOLUTION.

Proposing an amendment to the constitution of the state of Ohio.

Be it resolved by the General Assembly of the State of Ohio:

SECTION 1. That a proposition shall be submitted to the voters of the state on the first Tuesday after the first Monday in November, 1903, to amend article 13, section 6, of the constitution of the state of Ohio, so that it shall read as follows:

"Article 13, Section 6. The general assembly shall provide by general laws for the organization of cities, incorporated villages and hamlets and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power; provided, that the general assembly may divide cities into not more nor less than three classes, and if such division is made the classification shall be as follows and not otherwise: All cities having a population of more than one hundred thousand shall be cities of the first class; all cities having a population of not more than one hundred thousand nor less than twenty-five thousand shall be cities of the second class; all others shall be cities of the third class."

SECTION 2. At such election those electors desiring to vote for such amendment shall have placed upon their ballots the words: "Municipal classification amendment, yes"; and those opposed to such amendment shall have placed upon their ballots the words: "Municipal classification amendment, no."

SECTION 3. This amendment shall take effect on the first day of January, 1904.

W. S. MCKINNON,
Speaker of the House of Representatives.
F. B. ARCHER,
President pro tem. of the Senate.

Adopted October 22, 1902. 11

[Senate Joint Resolution No. 16.]

JOINT RESOLUTION

Providing for keeping open the new state house building and relic room, located in the state house.

Be it resolved by the General Assembly of the State of Ohio:

That the adjutant general be and hereby is directed to make the necessary provision for keeping open to the public on Sunday between the hours of 8:30 o'clock, A. M., and 4:30 P. M., the new state house building, and also the relic room, located in the state house, and

Be it Further Resolved, That the board of state library commissioners be and hereby is directed to make the necessary provision for keeping open to the public on Sunday, the state library, under the same rules and regulations as said library is kept open on other days of the week.

W. S. McKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Passed October 22, 1902. 12

[Senate Joint Resolution No. 17.]

JOINT RESOLUTION

Instructing the clerks of the house and senate to have printed two thousand copies of the code bill.

Be it resolved by the General Assembly of the State of Ohio:

That the clerk of the house and senate be instructed to have printed two thousand copies of the code bill, as reported by the committee of conference, for distribution to the officers of the several municipalities of the state.

W. S. McKINNON,
Speaker of the House of Representatives.

F. B. ARCHER,
President pro tem. of the Senate.

Adopted October 22, 1902. 13

STATE OF OHIO,
OFFICE OF THE SECRETARY OF STATE.

I, LEWIS C. LAYLIN, secretary of state of the state of Ohio, do hereby certify that the foregoing acts and joint resolutions were printed under and by the authority of the general assembly of said state, and that the same are true copies, copied from the original rolls on file in this office of the acts passed and the joint resolutions adopted by the seventy-fifth general assembly of the state of Ohio, at its extraordinary session, begun August 25, 1902, and ended October 22, 1902, and held in the city of Columbus.

In testimony whereof, I have hereunto subscribed my name, and affixed my official seal, at Columbus, the 29th day of October, A. D. 1902.

LEWIS C. LAYLIN,
Secretary of State.

[SEAL.]

TIMES FOR HOLDING THE CIRCUIT COURTS AND COURTS OF COMMON PLEAS IN OHIO IN 1908.

Counties.	County Seats.	Circuits.	Circuit Courts.	Districts.	Subdivisions.	Common Pleas Courts.
Adams	West Union	4	Apr. 8, Nov. 3	7	2	Jan. 5, Apr. 13, Sep. 22.
Allen	Lima	3	Apr. 7, Nov. 9	3	1	Jan. 19, Apr. 20, Oct. 5.
Ashland	Ashland	5	May 19, Nov. 3	6	2	Feb. 16, May 11, Nov. 16.
Ashtabula	Jefferson	7	Jan. 26, Sept. 21	9	3	Jan. 5, Apr. 6, Sep. 21.
Athens	Athens	4	Jan. 27, Sept. 22	7	3	Feb. 2, Apr. 27, Nov. 9.
Auglaize	Wapakoneta	3	Apr. 21, Nov. 19	3	1	Jan. 19, Apr. 6, Sep. 28.
Belmont	St. Clairsville	7	June 2, Dec. 7	3	2	Jan. 6, Apr. 7, Oct. 27.
Brown	Georgetown	4	Apr. 14, Nov. 10	5	1	Jan. 5, Apr. 13, Sep. 14.
Butler	Hamilton	1	Apr. 7, Oct. 12	2	1	Jan. 5, May 4, Oct. 5.
Carroll	Carrollton	7	Apr. 13, Nov. 3	9	1	Jan. 19, May 18, Sep. 28.
Champaign	Urbana	2	Apr. 13, Nov. 16	2	2	Jan. 5, May 4, Oct. 5.
Clark	Springfield	2	May 4, Dec. 7	2	2	Jan. 5, May 4, Oct. 5.
Clermont	Batavia	1	March 30, Oct. 5	5	1	Jan. 13, Apr. 21, Oct. 20.
Clinton	Wilmington	1	Apr. 27, Oct. 26	2	3	Jan. 5, May 4, Oct. 5.
Columbiana	Lisbon	7	March 30, Oct. 27	9	1	Jan. 12, Apr. 13, Sep. 28.
Coshocton	Coshocton	5	May 26, Oct. 27	6	3	Jan. 5, Apr. 7, Oct. 12.
Crawford	Bucyrus	3	Jan. 20, Sept. 22	10	2	Feb. 9, May 4, Oct. 26.
Cuyahoga	Cleveland	8	Jan. 5, Oct. 19	4	3	Jan. 5, April 7, July 6, Sep. 21.
Darke	Greenville	2	Apr. 20, Nov. 23	2	2	Jan. 5, May 4, Oct. 5.
Defiance	Defiance	3	March 10, Oct. 20.	3	2	Mar. 9, June 1, Nov. 9.
Delaware	Delaware	5	June 30, Dec. 15	6	1	Jan. 5, Apr. 7, Sep. 14.
Erie	Sandusky	6	March 16, Sept. 7.	4	1	Jan. 5, Apr. 7, Sep. 21.
Fairfield	Lancaster	5	Jan. 6, Sept. 1	7	1	Jan. 20, Apr. 20, Oct. 20.
Fayette	Washington C. H.	2	Apr. 27, Nov. 30	5	2	Jan. 5, Apr. 13, Oct. 12.
Franklin	Columbus	2	Jan. 5, Sept. 28	5	3	Jan. 5, Apr. 13, Sep. 14.
Fulton	Wauseon	6	Apr. 29, Dec. 2	3	3	Feb. 9, May 4, Oct. 26.
Gallia	Gallipolis	4	March 3, Oct. 13	7	3	Feb. 17, May 12, Oct. 20.
Geauga	Chardon	7	Feb. 9, Sept. 28	9	3	Jan. 5, Apr. 6, Sep. 21.
Greene	Xenia	2	March 23, Oct. 26.	2	3	Jan. 5, May 4, Oct. 5.
Guernsey	Cambridge	7	Apr. 21, Nov. 10	3	1	Feb. 9, May 4, Oct. 5.
Hamilton	Cincinnati	1	Jan. 5, Nov. 2	1	.	Jan. 5, April 6, July 6, Oct. 5.
Hancock	Findlay	3	May 19, Dec. 14	10	1	Jan. 5, Mar. 30, Sep. 14.
Hardin	Kenton	3	Feb. 10, Oct. 1	10	1	Jan. 5, Mar. 30, Sep. 14.
Harrison	Cadiz	7	May 12, Nov. 23	3	3	Feb. 23, May 18, Nov. 2.
Henry	Napoleon	3	Feb. 24, Oct. 13	3	3	Mar. 9, June 1, Nov. 23.
Highland	Hillsboro	4	Apr. 22, Nov. 17	5	2	Jan. 5, Apr. 7, Oct. 12.
Hocking	Logan	4	Feb. 10, Sept. 29	7	1	Jan. 5, Apr. 13, Sep. 14.
Holmes	Millersburg	5	June 2, Nov. 17	6	3	Feb. 2, May 4, Sep. 14.
Huron	Norwalk	6	March 30, Nov. 5	4	1	Jan. 5, Apr. 13, Oct. 5.
Jackson	Jackson	4	June 2, Dec. 15	7	2	Feb. 10, May 5, Oct. 27.
Jefferson	Steubenville	7	May 18, Nov. 30	3	3	Jan. 12, Mar. 30, Sep. 14.
Knox	Mt. Vernon	5	March 31, Oct. 6	6	1	Feb. 9, May 4, Nov. 9.
Lake	Painesville	7	Jan. 20, Sept. 16	9	3	Feb. 9, May 11, Oct. 26.
Lawrence	Ironton	4	March 10, Oct. 20.	7	2	Feb. 16, May 5, Oct. 13.
Licking	Newark	5	Apr. 7, Oct. 13	6	1	Jan. 5, Apr. 13, Sep. 21.
Logan	Bellefontaine	3	Feb. 17, Oct. 6	10	3	Feb. 2, May 4, Oct. 19.
Lorain	Elyria	3	Apr. 27, Oct. 5	4	2	Jan. 5, Apr. 7, Sep. 14.
Lucas	Toledo	6	Jan. 5, Sept. 28	4	1	Jan. 5, Apr. 7, Sep. 28.
Madison	London	2	March 30, Nov. 2	5	2	Feb. 16, May 18, Nov. 23.
Mahoning	Youngstown	7	March 9, Oct. 19	9	2	Jan. 5, May 4, Sep. 14.
Marion	Marion	3	Jan. 13, Sept. 15	10	2	Feb. 2, May 11, Oct. 12.
Medina	Medina	3	May 4, Oct. 12	4	2	Jan. 5, Apr. 7, Sep. 14.
Meigs	Pomeroy	4	Feb. 24, Oct. 6	7	3	Jan. 5, Apr. 7, Sep. 28.
Mercer	Celina	3	Apr. 28, Nov. 23	3	1	Jan. 19, Apr. 6, Sep. 28.
Miami	Troy	2	Apr. 7, Nov. 9	2	2	Jan. 5, May 4, Oct. 5.
Monroe	Woodsfield	7	Apr. 27, Nov 16	7	3	Jan. 13, Apr. 7, Sep. 22.
Montgomery	Dayton	2	May 18, Dec. 14	2	3	Jan. 5, May 4, Oct. 5.
Morgan	McConnelsville	5	May 5, Nov. 24	3	1	Jan. 6, Apr. 8, Oct. 6.
Morrow	Mt. Gilead	5	June 23, Dec. 8	6	2	Jan. 20, Apr. 20, Oct. 5.
Muskingum	Zanesville	5	Apr. 28, Oct. 20	3	1	Jan. 5, Apr. 7, Oct. 5.
Noble	Caldwell	7	May 4, Nov. 20	3	1	Jan. 5, Apr. 20, Sep. 3.
Ottawa	Pt. Clinton	6	May 20, Dec. 21	4	1	Feb. 23, June 15, Nov. 16.

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Counties.	County Seats.	Circuits.	Circuit Courts.	Districts.	Subdivisions.	Common Pleas Courts.
Paulding....	Paulding	3	March 3, Oct. 15..	3	2	Jan. 12, Apr. 6, Sep. 14.
Perry.....	New Lexington ..	5	May 12, Nov. 10...	7	1	Feb. 9, May 11, Nov. 9.
Pickaway...	Circleville	4	Apr. 28, Nov. 24...	5	2	Jan. 5, Apr. 13, Oct. 12.
Pike.....	Waverly	4	May 26, Dec. 9....	7	2	Jan. 5, Apr. 7, Sep. 21.
Portage.....	Ravenna	7	Feb. 16, Oct. 5....	9	2	Jan. 5, Apr. 6, Sep. 7.
Preble.....	Eaton	2	Apr. 16, Nov. 19...	2	2	Jan. 5, May 4, Oct. 5.
Putnam.....	Ottawa	3	March 17, Oct. 27.	3	3	Jan. 12, Apr. 7, Sep. 21.
Richland....	Mansfield	5	Jan. 13, Sept. 8...	6	2	Feb. 16, Sep. 21, Dec. 7.
Ross.....	Chillicothe	4	May 12, Dec. 1....	5	2	Jan. 12, Apr. 13, Oct. 19.
Sandusky...	Fremont	6	May 4, Dec. 7.....	4	1	Jan. 5, Apr. 13, Oct. 5.
Scioto.....	Portsmouth	4	March 31, Oct. 27.	7	2	Jan. 12, Apr. 20, Sep. 21.
Seneca.....	Tiffin	3	May 5, Dec. 1.....	10	1	Feb. 2, Apr. 20, Oct. 12.
Shelby.....	Sidney	2	Apr. 2, Nov. 5....	3	1	Feb. 23, May 18, Nov. 16.
Stark.....	Canton	5	March 3, Sept. 29.	9	1	Jan. 5, May 4, Sep. 14.
Summit.....	Akron	3	Apr. 13, Sept. 21..	4	2	Jan. 5, Apr. 27, Sep. 14.
Trumbull....	Warren	7	Feb. 23, Oct. 12...	9	2	Jan. 12, May 4, Sep. 28.
Tuscarawas.	New Philadelphia.	5	June 9, Dec. 1.....	8	3	Jan. 5, Mar. 23, Sep. 14.
Union.....	Marysville	3	Feb. 3, Sept. 29...	10	3	Jan. 5, Mar. 30, Sep. 14.
Van Wert...	Van Wert	3	March 31, Nov. 4..	3	1	Feb. 23, May 18, Nov. 16.
Vinton.....	McArthur	4	Feb. 17, Oct. 1....	7	3	Feb. 24, May 12, Oct. 20.
Warren.....	Lebanon	1	Apr 20, Oct. 19....	2	3	Jan. 5, May 4, Oct. 5.
Washington.	Marietta	4	Jan. 13, Sept. 16..	7	3	Jan. 6, Apr. 7, Sep. 22.
Wayne.....	Wooster	5	Feb. 17, Sept. 22..	6	3	Jan. 12, Apr. 13, Sep. 7.
Williams....	Bryan	6	Apr. 27, Nov. 30...	3	2	Feb. 10, May 5, Oct. 13
Wood.....	Bowling Green ..	6	Apr. 13, Nov. 16...	10	1	Jan. 5, Mar. 30, Sep. 14.
Wyandot....	Upper Sandusky..	3	Jan. 6, Sept. 8....	10	2	Jan. 19, Apr. 6, Sep. 14.

THE STATE OF OHIO,

OFFICE OF THE SECRETARY OF STATE.

I, LEWIS C. LAYLIN, Secretary of State of the State of Ohio, do hereby certify that the foregoing is a correct statement of the times for holding the Circuit Courts and Courts of Common Pleas in the several counties of the State of Ohio, in the year 1903, taken from the official lists returned by the judges of said courts to this office.

WITNESS my hand and official seal, this 20th day of November, A. D. 1902.

LEWIS C. LAYLIN.

[SEAL.] *Secretary of State.*

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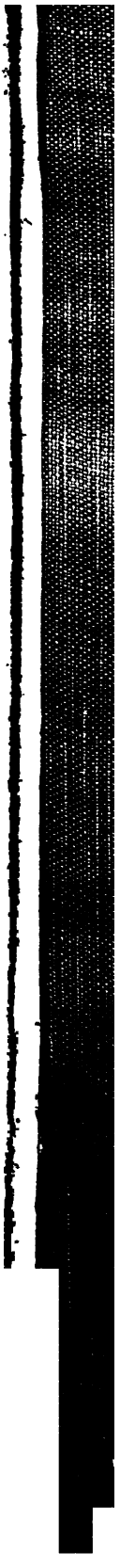

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